НЕК-ЕАД

POWER PURCHASE AGREEMENT

Between

(1) NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

and

(2) CONSOLIDATED CONTINENTAL COMMERCE LIMITED

for a
2 X 300 MW (NET) LIGNITEFIRED THERMAL
POWER PLANT AT MARITZA EAST 1

MARITZA EAST 1

CONTENTS

Clause Heading		Page No.
1.	DEFINITIONS AND INTERPRETATIONS	2
2.	SALE, PURCHASE AND DELIVERY	25
3.	OBLIGATIONS OF 3-C BULGARIA	27
4.	OBLIGATIONS OF THE PURCHASER	33
5.	SECURITY FOR 3-C BULGARIA'S OBLIGATIONS	35
6.	COMMISSIONING AND TESTING	36
7.	OPERATIONS AND MAINTENANCE	40
8.	METERING	44
9.	SUPPLY OF FUEL	45
10.	PAYMENT	45
11.	INSURANCE	54
12.	INDEMNIFICATION AND LIABILITY	57
13.	UNUSUAL EVENTS	61
14.	CONDITIONS PRECEDENT	78
15.	TERM AND TERMINATION	82
16.	POSSESSION AND TRANSFER OF THE COMPLEX	90
17.	REPRESENTATIONS, WARRANTIES AND COVENANTS	92
18.	SETTLEMENT OF DISPUTES	95
19.	ASSIGNMENT	100
20.	PRIVATISATION ASSURANCES	102
21.	GUARANTEE AND UNDERTAKING	102
22.	MISCELLANEOUS	102

APPENDICES

A. TARIFF, ANCILLARY SERVICES PAYMENTS, SYSTEM CHARGES AND REIMBURSEMENTS

B. PROJECT DESCRIPTION AND DESIGN CONDITIONS

C. TECHNICAL LIMITS

D. PROJECT SCHEDULE

E. INTERCONNECTION POINTS, ELECTRICAL INTERCONNECTION FACILITIES AND CONSTRUCTION INTERFACES

F. PERFORMANCE TESTING

G. OPERATING PROCEDURES

H. SITE DESCRIPTION

I. COMPLEX TRANSFER PROCEDURES

J. GOVERNMENTAL APPROVALS

K. MEASUREMENT AND TESTING PROCEDURES

L. CONSTRUCTION AND COMMISSIONING OF THE INTERCONNECTION FACILITIES

M. TAX ASSUMPTIONS

N. FORM OF DEVELOPMENT PERFORMANCE GUARANTEE

O. FORM OF CONSTRUCTION PERFORMANCE GUARANTEE

P. FORM OF TRANSFER SECURITY

Q. FORM OF ACCESSION UNDERTAKING

R. DIAGRAMS AND PLANS

S. PROJECT SUPPORT LETTER

T. FINANCIAL MODEL

THIS POWER PURCHASE AGREEMENT is made as of 13th June 2001

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria ("**NEK**"), herein represented by Mr Danail Tafrov who is duly authorised to represent it in this Agreement; and

(2) **CONSOLIDATED CONTINENTAL COMMERCE LIMITED**, a private limited company duly organised and existing under the laws of Mauritius ("**3-C Mauritius**"), herein represented by Mr Richard Mardon who is duly authorised to represent it in this Agreement.

WHEREAS:

(A) NEK and Consolidated Continental Commerce Limited, a limited company registered in the Republic of Ireland ("**3-C Ireland**"), entered into an energy conversion contract (the "**Energy Conversion Contract**") on 16th October 1998 for the implementation of the Project with the approval of the Committee of Energy and following an international tender conducted by NEK which was won by 3-C Ireland.

(B) By an assignment dated 24th September 1999 3-C Ireland assigned all its interest, rights and obligations in the Energy Conversion Contract to 3-C Mauritius, a limited company registered in Mauritius and NEK consented to such assignment in accordance with the applicable provisions of the Energy Conversion Contract on 29th September 1999.

(C) By an amendment agreement dated 15th February 2000 NEK and 3-C Mauritius, with the approval of SAEER, agreed to amendments to the Energy Conversion Contract, including the technical annexes.

(D) On 15th February 2000 NEK, 3-C Mauritius and SAEER also signed a non-binding memorandum of understanding in relation to the implementation of the Project and this Agreement gives effect to the provisions of such memorandum.

(E) Accordingly:

(1) 3-C Mauritius wishes to implement the Project on the terms of this Agreement; and

(2) NEK wishes to purchase the Capacity of each Unit and the Net Electrical Energy Output to be generated thereby subject to and on the terms of this Agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

THIS ACCESSION UNDERTAKING is made on 13 June 2001

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria ("**NEK**"), herein represented by Mr Danail Tafrov, who is duly authorised to represent it in this Agreement; and

(2) **CONSOLIDATED CONTINENTAL COMMERCE LIMITED**, a private limited company duly organised and existing under the laws of Mauritius ("**3-C Parent**"), herein represented by Mr Richard Mardon, who is duly authorised to represent it in this Agreement; and

(3) **AES-3C MARITZA IZTOK 1 EOOD**, a private corporation duly organised and existing under the laws of the Republic of Bulgaria ("**AES-3C**"), herein represented by Mr Richard Mardon, who is duly authorised to represent it in this Agreement

(together the "**Parties**").

WHEREAS:

(A) This Accession Undertaking is supplemental to a power purchase agreement dated 13th June 2001 made between (1) 3-C Parent and (2) NEK (the "**PPA**").

(B) As required under of the PPA, 3-C Parent is obliged to nominate one of its affiliates to become a party to the PPA and to assume the rights and obligations of 3-C Bulgaria (as defined under the PPA) and this Accession Undertaking records the terms on which such nomination shall take effect.

NOW IT IS HEREBY AGREED as follows:

1. **Nomination**

1.1 Subject to the terms hereof, 3-C Parent hereby nominates AES-3C to become a party to the PPA and to assume all the rights and obligations under the PPA of 3-C Bulgaria (as defined in the PPA) and AES-3C hereby accepts that nomination shall be with effect from the date of signing of the PPA and NEK hereby consents to such assignment.

1.2 As a consequence of such nomination, AES-3C hereby joins with 3-C Parent and NEK to become a party to the PPA and assumes the obligations of 3-C Bulgaria thereunder (as more particularly described in Paragraph 1.3 below). AES-3C hereby undertakes to observe and perform the PPA and to be bound by the terms of the PPA in every way as if it had been a party to the PPA with effect from the date of the signing of the PPA.

1.3 The Parties hereby confirm that notwithstanding the nomination and assumption under this Accession Undertaking, the PPA shall continue in full force and effect.

2. **Representations**

AES-3C hereby represents and warrants to NEK and 3-C Parent that:

2.1 it is duly incorporated, validly existing and in good standing under the laws of Bulgaria;

2.2 it has all requisite legal power and corporate authority to execute, deliver and perform its obligations under this Accession Undertaking, the PPA and each of the other Project Agreements (as defined in the PPA) to which it is a party;

2.3 there are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it before any court or administrative body or arbitral tribunal which might materially and adversely affect its ability to meet and carry out its obligations under this Accession Undertaking, the PPA and each of the other Project Agreements (as defined in the PPA) to which it is a party;

2.4 this Accession Undertaking has been duly authorised, executed and delivered by it and the provisions hereof and this Accession Undertaking, the PPA and each of the other Project Agreements (as defined in the PPA) to which it is a party will constitute its legal, valid and binding obligations, enforceable in accordance with their terms except as the enforceability may be limited by applicable bankruptcy, insolvency or other similar laws affecting creditors' rights generally.

3. **General**

The provisions of Clauses 18 and 22 of the PPA shall as required apply to this Accession Undertaking.

IN WITNESS WHEREOF, the Parties have caused this Accession Undertaking to be executed in duplicate originals, each of which shall be deemed to be an original as of the date first above written.

SIGNED by Danail Tafrov, Executive Director)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by Richard Mardon, Executive Director)
duly authorised for and on behalf of)
CONSOLIDATED CONTINENTAL COMMERCE LIMITED)

SIGNED by Richard Mardon, Executive Director)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK 1 EOOD)

1. DEFINITIONS AND INTERPRETATIONS

1.1 **Definitions:** Unless the context otherwise requires, capitalised terms used in this Agreement, including the recitals above, shall have the respective meanings given to them below:

"Accession Undertaking": an agreement in the form contained in Appendix Q under which 3-C Bulgaria agrees to become a Party to this Agreement;

"Active Power": the active electrical energy per unit of time measured in MWh/hour and its derivative units;

"Actual Available Capacity": is the average Capacity of a Unit which is made available during an Availability Period, determined through metering of Net Electrical Energy Output across the Availability Period (in MW) and, at the discretion of 3-C Bulgaria, adjusted (by reference to the performance correction curves given in Appendix R-5) to take account of ambient air temperatures (measured at 13:00 hours on that Day or more frequently if ambient air temperatures are lower than -15^0C or higher than $+35^0$C) which are lower than -15^0C or higher than $+35^0$C;

"Affiliate": as to any specified Person, any other Person who, directly or indirectly:

(i) owns or is owned by; or

(ii) is in control of or is controlled by; or

(iii) is under common ownership and control with;

such specified Person and for the purposes of this definition, **"control"** and **"controlled"** shall mean:

(a) the ownership of more than fifty percent (50%) of voting securities of; or

(b) the ability to elect a majority of the directors of; or

(c) the exercise of management control over;

a Person, either through contract, constitutional documents or otherwise;

"Agreement": this power purchase agreement including all Appendices hereto and their attachments, as the same may be supplemented or amended from time to time;

"Ancillary Services": those services provided by 3-C Bulgaria to the Purchaser from time to time as described in Appendix G comprising Primary Control, Secondary Control and Excess Shut-Down and Start-Up Cycles;

"Annual Commercial Plan": the plan in the form contained in Annex G-1 in Appendix G to be agreed for each Calendar Year by 3-C Bulgaria and the Purchaser in accordance with Paragraph 6 of Appendix G;

"Assignment of Receivables": an assignment of receivables due to the Purchaser from Customers in an amount at any instant in time sufficient to provide security for one Month's Capacity Payments (based on Contracted Capacity) and one Month's Energy Payments (based on Net Electrical Energy Output at Full Load) as they fall due, to be executed in the form to be agreed between the Parties in accordance with Clause 14.1(a)(ii);

"Available": the state of a Unit if it is either connected to and synchronised with the Grid System (with circuit breakers closed) or in Reserve and **"Unavailable"** and cognates of Available and Unavailable shall be construed accordingly;

"Available Contracted Capacity": is the lesser of:

(a) Tested Capacity (in MW); and

(b) the aggregate of Contracted Capacity and Surplus Capacity and Third Party Capacity (in MW);

"Available Capacity": the meaning given to it in Paragraph 1 of Appendix A;

"Availability Test": a test of the Availability of a Unit's Capacity carried out in accordance with the provisions of Paragraph 5 or Paragraph 6 of Appendix F;

"Availability Period": each period of 60 minutes beginning on the hour during all or part of which a Unit is Available;

"Back-Up Metering System": the meaning given to it in Paragraph 1.1 of Appendix K;

"Bulgaria": the Republic of Bulgaria and **"Bulgarian"** shall be construed accordingly;

"Bulgarian Authority":

(a) the parliament of Bulgaria, the Government and any national, state, provincial, city, municipal, public or local government, department, national bank, council, commission, board, bureau, agency or instrumentality of Bulgaria including the Regulator and the System Operator; or

(b) any quasi-governmental or private body exercising any regulatory, expropriation, fee collecting or tax authority under or for the account of any of the foregoing, whether acting under its own authority or authority delegated to it by any of the foregoing; or

(c) any Person controlled by any of the foregoing while acting in an administrative capacity; or

(d) any subdivision, agent, commission, board or authority of any of the foregoing;

"Bulgarian Authority Action": the meaning specified in Clause 13.2;

"Bulgarian Incident": the meaning given to it in Clause 13.3;

"Bulgarian Market Liberalisation": at least forty per cent (40%) of domestic Bulgarian demand for electricity (in MWh) being permitted under Legal Requirements to be supplied under contracts concluded directly between Bulgarian electricity producers and Bulgarian eligible consumers (other than the Purchaser) and/or through regulated energy markets;

"Bulgarian National Grid Code": the set of procedures setting out the basic principles for the operation of the Bulgarian electricity system, approved by the Regulator pursuant to the Energy Act and as amended from time to time;

"Business Day": any Day excluding Saturdays, Sundays and any Days which are Bulgarian national holidays or on which banking institutions are permitted to be closed in Bulgaria;

"Calendar Year": a period of twelve (12) consecutive Months beginning at 00:00 on January 1st and ending at 24:00 on December 31st of the same calendar year and, **"Calendar Yearly"** shall mean once per Calendar Year;

"Capacity": the capacity of a Unit to deliver Net Electrical Energy Output to the Delivery Point over a specified period (expressed in MW);

"Capacity Payment": the amount payable by the Purchaser to 3-C Bulgaria with respect to the Availability of the Units, determined as described in Paragraph 1 of Appendix A and otherwise in accordance with this Agreement;

"Capital Cost Contingency": the contingency amount included in the Financial Model in respect of potential capital cost over-runs in connection with the implementation of the Project, being seventy million Euros (€ 70,000,000);

"Change in Law": any of the following events occurring after the date of this Agreement:

(a) the enactment, adoption, promulgation or making of any new Legal Requirement (except with respect to Taxes); or

(b) the replacement, extension, repeal, modification, cancellation, non-renewal or change in the interpretation or application of any existing Legal Requirement (except with respect to Taxes); or

(c) any action or failure to act by a Bulgarian Authority which renders all or any portion of any Project Agreement unenforceable, invalid or void, or makes it illegal or impossible for any Person to receive, enjoy or enforce any material right thereunder; or

(d) any Lapse of Consent; or

(e) any of the following (with the exception of the introduction of the corporate income tax rates specified in Paragraph A of Appendix M to the extent they are effective from 1st January 2002):

(i) the introduction, imposition, levying or charging of any Tax and/or any variation in the rate at which and/or any change in the basis on which any Tax is charged; or

(ii) any alteration in Legal Requirements or in the published practice of any Bulgarian Authority relating in either case to Taxes; or

(iii) any Tax ceasing to be imposed, levied or charged;

"Cold Start": the starting-up of a Unit after fifty (50) continuous shutdown hours, boiler unfired and not drained, all systems filled, turbine on turning gear and all systems near ambient temperatures and pressures;

"Commercial Metering System": the meaning given to it in Paragraph 1.1 of Appendix K;

"Commissioning": the taking of such steps as 3-C Bulgaria may consider to be necessary to put the relevant Unit into commercial operation having regard to Prudent Operating Practices, including carrying out tests prior to operation as specified in Clause 6 and Paragraphs 1 to 3 of Appendix F, and **"Commission"** and any cognates thereof shall be construed accordingly;

"Commissioning Start Date": the date of commencement of the Commissioning of Unit 1;

"Complex": a power plant to be constructed at the Site in accordance with this Agreement and comprising the First Unit and the Second Unit together with all buildings, structures, common facilities and equipment ancillary thereto and all fixtures, fittings and machinery at the Site, but excluding any part of the Grid System;

"Complex Transfer":

(a) the transfer by 3-C Bulgaria of all its rights and interest in and title to the Complex and the Site, free and clear of all debt and liabilities (including all liabilities under the Financing Agreements); and

(b) to the extent allowed thereunder, the assignment and transfer by 3-C Bulgaria, 3-C Parent and their Affiliates of all their rights and obligations under the other Project Agreements (apart from the Financing Agreements, the O&M Agreement (if the operator is an Affiliate of 3-C Bulgaria) and any Project Services Agreement) and any other agreements entered into by 3-C Bulgaria for the sale of electricity to third parties as permitted under this Agreement;

to the Purchaser or (subject to the terms of the relevant Project Agreement) a nominee of the Purchaser in accordance with the provisions of Clause 16.2 and Appendix I;

"Construction Performance Guarantee": a parent company guarantee to be issued by The AES Corporation guaranteeing the obligations of 3-C Bulgaria under Clauses 5.2, in the form contained in Appendix O;

"Construction Start Date": the meaning given to it in Clause 3.3(e);

"Contracted Annual Scheduled Outage Allowance": "$CASO_m$", as defined in Paragraph 1 of Appendix A;

"Contracted Capacity": of a Unit (in MW) is 300 MW less any Contracted Capacity of the Unit which has been de-rated as specified in Clause 7.3;

"Co-ordinating Committee": the meaning given to it in Clause 7.2;

"Customer": each customer of the Purchaser acceptable to 3-C Bulgaria (in its reasonable discretion) for the purpose of the Assignment of Receivables;

"Daily Liquidated Amount": thirty thousand Euros (€ 30,000) per Day (or part of a Day);

"Date of Commercial Operation": the meaning given to it in Clause 6.4(b);

"Date of Full Commercial Operation": the meaning given to it in Clause 6.4(b);

"Day": the 24 hour period beginning at 00:00 midnight Bulgarian time;

"Declared Capacity": is the Capacity of the Unit declared by 3-C Bulgaria to be available to be dispatched or held in Reserve during the relevant Availability Period (in MW) in accordance with Paragraph 5.4(c) of Appendix G;

"Declared Net Availability Plan": the meaning given to it in Paragraph 1.1 of Appendix G;

"Delivery Point": the contact point between 3-C Bulgaria's high voltage transmission tower within the Complex switchyard and the Purchaser's transmission line, at which point the Net Electrical Energy Output is delivered onto or received from the Grid System;

"Development Performance Guarantee": a parent company guarantee to be issued by The AES Corporation guaranteeing the obligations of 3-C Bulgaria under Clause 5.1, in the form contained in Appendix N;

"Direct Agreement": the direct agreement (which shall include a consent to a security assignment of this Agreement) between the Purchaser, 3-C Bulgaria, 3-C Parent and the Financing Parties (or their agent, trustee or other representative) in the form to be

agreed between the Parties and the Financing Parties in accordance with the provisions of Clause 14.1(a)(ii);

"Discriminatory": treatment of any Person by any Bulgarian Authority or by any Person which is an Affiliate of a Bulgarian Authority on or after the date of this Agreement which either:

(a) makes an unfavourable distinction by means of the application to that Person of a higher or different standard of performance compared to other similarly situated Persons; or

(b) extends a benefit or favour to any other similarly situated Persons, which benefit is not also extended to that Person; or

(c) has the effect of depriving that Person of any material benefits or profits or forces it to incur material additional costs or expenses which in either such case is not also experienced by other similarly situated Persons;

and for this purpose 3-C Bulgaria shall be compared to other electricity generators with similar load factors operating in Bulgaria (excluding nuclear or hydro-electric generators) and 3-C Parent shall be compared to other foreign shareholders of such companies;

"Dispatched Capacity": is the Capacity of the Unit (in MW) dispatched pursuant to a Dispatch Instruction during the relevant Availability Period in accordance with Paragraph 5.5 of Appendix G;

"Dispatch Instruction": each instruction given to 3-C Bulgaria by the System Operator to schedule and control the operation of a Unit during any Availability Period within the Technical Limits (and in any event not exceeding the Declared Capacity for the relevant Availability Period) in order to switch off or switch on, to increase, maintain or decrease the load delivered to the Grid System in accordance with this Agreement and to provide Ancillary Services;

"Dispute": the meaning given to it in Clause 18.2;

"Due Date": the meaning given to it in Clause 10.2(a);

"Effective Date": the meaning given to it in Clause 14.3;

"Emergency": any physical condition or situation caused by unforeseen circumstances which does or could reasonably be expected to:

(a) present an imminent threat of danger to life or significant threat to health of any Person or property; or

(b) cause a significant disruption to the operation of or damage to the Grid System, the Complex or any portion thereof; or

(c) significantly and adversely affect the Purchaser's ability to provide safe, adequate and reliable electricity supply to its customers;

provided, however, that neither a transient condition resulting in a surge on the Grid System nor any sustained increase or decrease in energy demand from customers of NEK shall be treated as an Emergency;

"Energy Act": the Bulgarian Energy and Energy Efficiency Law adopted by the National Assembly on 2 July 1999 as amended, added to, substituted, replaced, renewed or extended from time to time;

"Energy Conversion Contract": the agreement referred to in Recital (A);

"Energy Payment": the amount payable by the Purchaser to 3-C Bulgaria, determined as described in Paragraph 2 of Appendix A and otherwise in accordance with this Agreement;

"Environmental Requirements": any and all:

(a) Legal Requirements relating to public health, safety of workforce or the environment, the disposal of materials, the discharge or release of chemicals, gases or other substances or materials into the environment or the presence of such materials, chemicals or other substances as are applicable to a Party's obligations under this Agreement (including environmental regulations relating to the air, water or soil) which are in force at the date of this Agreement; and

(b) the higher of those standards in respect of environmental management applicable in Bulgaria at the date of this Agreement and those in force in the European Union at the date of this Agreement;

"EPC Agreement": any agreement to be entered into by either or both of 3-C Bulgaria and/or 3-C Parent or their Affiliates with a contractor for each or any of the design, engineering, procurement and construction of the Complex;

"EPC Contractor": the contractor appointed by 3-C Bulgaria and/or 3-C Parent or their Affiliates under an EPC Agreement;

"Equity": the aggregate of all cash, assets (tangible and intangible) or other resources invested or otherwise made available by 3-C Bulgaria, 3-C Parent and any of their Affiliates for the implementation of the Project including by way of capital contribution, loan or guarantee and specifically including:

(a) the actual weighted average cost of capital to The AES Corporation (certified by the treasury department of The AES Corporation) of providing the Development Performance Guarantee and the Construction Performance Guarantee (not to exceed twelve per cent (12.0%) per annum of the amount guaranteed) but excluding:

(i) any amounts drawn under such guarantees; and

(ii) the cost of extending the Development Performance Guarantee under Clauses 6.5(e) or (f); and

(b) the actual weighted average cost of capital to The AES Corporation or its Affiliates (certified by the treasury department of The AES Corporation) of providing any guarantees given under the Financing Agreements in connection with the obligations of 3-C Bulgaria and/or 3-C Parent and/or their Affiliates (not to exceed twelve per cent (12.0%) per annum of the amount guaranteed) and any amounts drawn under such guarantees;

which in any such case remain outstanding and/or un-reimbursed at the Termination Date but:

(1) excluding any such contributions made which are made but which are not used by 3-C Bulgaria for the purposes of implementing the Project; and

(2) less fifty per cent (50%) of the amount of the Capital Cost Contingency to the extent this has been expended in connection with the Project as at the Termination Date;

"EU Accession": the official accession by Bulgaria to full membership of the European Union pursuant to and in accordance with applicable procedures at the relevant time;

"Euro Interest Rate": LIBOR plus four percentage points (4%), compounded Monthly on the last Day of each Month;

"Euro" or **"€"**: the single currency of participating member states of the European Union;

"Excess Shut-Down & Start-Up Cycle": the meaning specified in Paragraph 3.1 of Appendix A;

"Expert": a Person appointed as an expert in accordance with the provisions of Clause 18.12;

"Financial Close": the satisfaction (or waiver by the Financing Parties) of all conditions precedent to the initial drawdown of funds under the Financing Agreements other than the occurrence of the Effective Date;

"Financial Model": the base case financial model for the Project in the form contained in Appendix T with adjustments provided for in accordance with an adjustment under Clause 10.7 and/or Paragraph 1 of Appendix A to take account of (1) Variation in Cost of Finance and/or (2) Use of Capital Cost Contingency ;

"Financing Agreements": all loan agreements, notes, debentures, debt facilities, indentures, mortgages, assignments, pledges, subordination and other security agreements of any kind, guarantees, letters of credit, performance bonds, hedging

agreements, credit agreements, consents or direct agreements and other agreements and documents, if any, executed for the purposes of financing (or securing or administering the financing of) any portion of the Project (including any refinancing, modification or amendment thereof) from time to time and including the Direct Agreement and the Project Support Letter;

"Financing Parties": each Person (other than any of 3-C Bulgaria and/or 3-C Parent or their Affiliates or the Purchaser or its Affiliates) being a party to any of the Financing Agreements and providing finance (in any form) for the implementation of the Project;

"First Commissioning Date": the date which is three (3) Months before the Required Date of Commercial Operation, or such earlier date as 3-C Bulgaria may specify by one hundred and twenty (120) Days' prior notice given to the Purchaser provided that if such notice of an earlier date expires on or before the expiry of thirty (30) Months after the Effective Date, the Purchaser's approval to such date (not to be unreasonably withheld or delayed) shall first be obtained;

"First Unit" or **"Unit 1"**: the first to be Commissioned of two power generating units to be located at the Site and described in Appendix B;

"Force Majeure Event": the meaning specified in Clause 13.4;

"Forced Outage": the meaning specified in Clause 7.6;

"Fuel": lignite, oil and any other fuel to be fired by 3-C Bulgaria in generating Net Electrical Energy Output;

"Fuel Supply Agreement": the Lignite Supply Agreement and each other Fuel supply agreement entered into between 3-C Bulgaria or its Affiliates and any supplier of Fuel to the Complex;

"Full Load": Dispatch Instructions to the Complex to operate a Unit during an Availability Period at a load equal to or exceeding 300 MW;

"Government": the government of Bulgaria from time to time (including the Council of Ministers and any Ministry) being the constitutional government of Bulgaria;

"Governmental Approvals": all consents, licences and other permissions or authorisations required from or entered into with any Bulgarian Authority in connection with the proper conduct and performance of any Project Agreement, including the Project Support Letter, those specified in Appendix J and the certification by the Directorate for National Construction Control pursuant to Clause 6.4(a);

"Grid System": any and all transmission and distribution facilities through which the Net Electrical Energy Output will be transmitted by the Purchaser from the Delivery Point including the Interconnection Facilities;

"Gross Capacity": the gross generating capacity of the steam turbine generator installed in a Unit measured at the generator terminals and adjusted to the heat rate design conditions specified in Annex F-1 in Appendix F;

"Gross Metering System": the meaning given to it in Paragraph 1.1 of Appendix K;

"Hot Start": the starting-up of a Unit after not more than eight (8) hours' continuous shutdown;

"Independent Engineer": the meaning given to it in Clause 6.6;

"Interconnection Facilities": the facilities to be engineered, designed, procured, constructed, installed, licensed, permitted, tested, commissioned, owned and maintained by the Purchaser to provide for the transfer of the Net Electrical Energy Output from the Delivery Point to the rest of the Grid System and auxiliary electricity from the Grid System to the Complex including all relay-protection equipment and transmission lines, as more particularly described in Appendix E;

"Interest": for amounts denominated in this Agreement in:

(a) Lev, interest which accrues at the Lev Interest Rate; and

(b) Euros, interest which accrues at the Euro Interest Rate;

"Interest on Equity": the aggregate of the interest (accruing at the rate of seventeen and a half per cent (17.5%) per annum, compounding annually on the last Day of each Calendar Year) determined for each amount comprising the Equity from the date each such amount was first made available to the Project to the Termination Date specified in this Agreement less the aggregate of the nominal amounts of distributions made in respect of such Equity (in whatever form received by 3-C Bulgaria or its Affiliates), provided that for the avoidance of doubt distributions or other payments in respect of past Equity contributions which have since been repaid or otherwise returned shall be excluded from this calculation (on a proportional basis where there has been a partial reduction of the related Equity);

"Invoice": the meaning given to it in Clause 10.1(a);

"Invoicing Period": the meaning given to it in Clause 10.1(a);

"kcal": kilocalorie;

"kg": kilogramme;

"kJ": kilojoule;

"kW": kilowatt;

"Lapse of Consent":

(a) any Governmental Approval which is withheld or cancelled or otherwise ceases

to remain in full force and effect; or

(b) any Governmental Approval which is not issued or renewed (on terms and conditions at least as favourable as those contained in the original Governmental Approval) within the period prescribed by Legal Requirements or if there is no period prescribed by Legal Requirements, within a reasonable time (which for the avoidance of doubt shall mean, in the case of a Governmental Approval listed in Column 1 of Appendix J, by the date for that Governmental Approval specified in Column 2 of Appendix J); or

(c) any Governmental Approval which is made or becomes conditional on renewal of terms or subject to any other conditions; or

(d) in the case of an application to the Regulator in accordance with Clauses 10.7(f) or 22.16(d), the failure of the Regulator to notify the Parties of its decision as described in Clause 10.7(i)(i) or (ii); or

(e) any combination of the above;

which in any such case has a material adverse effect on a Person's ability to perform its obligations or enjoy its rights under any Project Agreement or to pay any dividend or other distribution to its Affiliates except where:

(i) this occurs due to a breach of a Legal Requirement, a Governmental Approval or a Project Agreement by the Person requiring such Governmental Approval; or

(ii) the relevant Person has not diligently attempted to obtain or maintain such Governmental Approval including through (1) full and timely compliance with all procedural requirements relating to the issue or renewal of such Governmental Approval and (2) pursuing all reasonably available procedures for appealing against and challenging the grounds upon which such Governmental Approval is not issued or renewed or on which such conditions are attached; or

(iii) the relevant Party was not entitled under Legal Requirements to the issuance or renewal of the relevant Governmental Approval or, as the case may be, the relevant Bulgarian Authority is permitted under Legal Requirements to impose conditions and it does so in a non-Discriminatory manner; or

(iv) the relevant Governmental Approval has expired on the normal expiration of its term;

"Legal Opinion": a legal opinion in respect of the matters represented in Clause 17.1 in relation to each Party in the form to be agreed between the Parties in accordance with Clause 14.1(a)(ii);

"Legal Requirement":

(a) all acts, resolutions, decrees, orders or decisions of Bulgarian Authorities presently in force or issued from time to time in the territory of the Republic of Bulgaria; and

(b) any requirement to act or refrain from acting issued by a Bulgarian Authority; and

(c) the Bulgarian National Grid Code (from the date of its entry into force and as amended from time to time);

in any such case having a binding legal effect on the Person in question;

"Lev": the lawful currency of Bulgaria;

"Lev Interest Rate": the official base interest rate in respect of Lev published by the National Bank of Bulgaria plus four percentage points (4%), compounded Monthly on the last Day of each Month;

"LIBOR": either

(a) the screen rate for the offering of deposits in Euros for the period of one (1) Month, being in relation to LIBOR, the percentage rate per annum determined by the Banking Federation of the European Union displayed on page 248 of the Telerate screen or, if such page or service is replaced or ceases to be available, such other comparable page or service displaying the appropriate rate as the Parties may agree; or

(b) if no screen rate is available at the relevant time or if the agreed page or service is replaced or ceases to be available without the Parties having agreed another comparable page or service, the rate (rounded upwards to four (4) decimal places) for the offering of deposits in Euros for the period of one (1) Month as quoted by the principal office of a leading bank to another leading bank in the European inter-bank market;

in either case as of 11:00 a.m. Brussels time on any date for which an interest rate is sought;

"Lignite Supply Agreement": the agreement with MMI or any other Person entered into by 3-C Bulgaria or its Affiliates for the supply of Fuel in the form of lignite for the Project;

"Limestone Supply Agreement": each agreement entered into by 3-C Bulgaria or its Affiliates for the supply of limestone for the Project;

"Long Stop Construction Start Date": that date which is three (3) Months after the Effective Date, such date to be extended to the extent that the Construction Start Date is delayed due to any Unusual Event or Purchaser Related Event;

"Long Stop Date of Commercial Operation": that date which is forty-five (45) Months after the Construction Start Date plus such additional period as is specified in Clause 6.5;

"Long Stop Date of Financial Close": that date which is fourteen (14) Months after the Reference Date provided that such long stop date shall be extended on a Day-for-Day basis for up to twenty-four (24) additional Months for:

(a) each Day after six (6) Months following the Reference Date on which any of the Governmental Approvals listed in Appendix J:

(i) remain outstanding or unissued; or

(ii) if issued, remain subject to the satisfaction of conditions before becoming fully effective and which the Financing Parties required to be satisfied prior to Financial Close;

assuming 3-C Bulgaria to be complying with its obligations under Clause 14.1(b) in respect of the condition contained in Clause 14.1(a)(iv); and

(b) each Day following the date of this Agreement during which there is a Purchaser Related Event or a Force Majeure Event declared by 3-C Bulgaria;

"Long Stop Date of Full Commercial Operation": that date which is forty-five (45) Months after the Construction Start Date plus such additional period as is specified in Clause 6.5;

"Maintenance Outage": the meaning given to it in Clause 7.5(b)(i);

"Metering Devices": the meaning given to it in Paragraph 1.2 of Appendix K;

"Metering System": the meaning given to it in Paragraph 1.1 of Appendix K;

"Minimum Monthly Quantity": an amount of MWh in respect of the Complex determined for each Month during a Calendar Year in accordance with Paragraph 5 of Appendix G (irrespective of whether such MWh are actually dispatched), except as otherwise stated in this Agreement;

"MMI": Mini Maritza Iztok EAD, its legal successors and permitted assigns and transferees under any of the Lignite Supply Agreement, the Waste Disposal Agreement and/or the Rail Transport Agreements to which MMI is a party;

"MW": megawatt;

"MWh": megawatt hours;

"Month": a calendar month (in accordance with the Gregorian Calendar), and **"Monthly"** shall mean once per Month;

"NEK": the first named Party to this Agreement;

"NEK Privatisation": the first to occur of:

(a) the transfer of ownership in a majority of the issued shares in the capital of the Purchaser to Persons other than Bulgarian Authorities;

(b) the transfer of substantially all of the Purchaser's assets or business activities to Persons other than Bulgarian Authorities;

(c) any merger, consolidation, amalgamation, reorganisation, reconstruction or issue of new capital having substantially the same effect as (a) or (b); and

(d) the entry into any lease of or management agreement with respect to substantially all of the assets or business activities of the Purchaser with Persons other than Bulgarian Authorities having an intended term which will exceed the Term;

in each case:

(1) without Bulgarian Authorities, whether acting alone or collectively and whether through constitutional documents or contract, retaining rights to appoint or remove a majority of the board of directors of the Purchaser (in the case of (a), the transferee (in the case of (b)) or the lessee or manager (in the case of (d)) or to direct a majority of the votes of those boards; and/or

(2) such that executive management of the Purchaser (in the case of (a)), the transferee (in the case of (b)) or the lessee or manager (in the case of (d)) shall be able to take substantially all of the management decisions of such Person acting in the ordinary course of its business without the consent of Bulgarian Authorities, whether acting alone or collectively and whether through constitutional documents or contract;

"Net Electrical Energy Output": electricity delivered by 3-C Bulgaria at the Delivery Point as metered, monitored, measured and recorded in accordance with the provisions of Clause 8 and Appendix K (expressed in MWh);

"Non-Avoidable Costs": all costs, fees and expenditure incurred by 3-C Bulgaria and/or its Affiliates' to third parties (other than due to an Affiliate of 3-C Bulgaria/its Affiliates or arising pursuant to the Financing Agreements) which are incurred in the performance of this Agreement, as evidenced by invoices, including breakage costs under any Project Agreement (including any loss, cost or expense incurred as a result of a Person terminating, liquidating, obtaining or re-establishing any hedge or related trading or supply position), but only to the extent such costs, fees, dues and expenditure cannot be avoided or reduced through rapid, conscientious and good faith action by 3-C Bulgaria or its Affiliates or from the proceeds of any insurance claims received by 3-C Bulgaria under the insurance policies maintained under Clause 11.2;

"Non-Scheduled Outage": a Forced Outage or a Maintenance Outage;

"Notice of Intent to Terminate": the meaning specified in Clause 15.5(a);

"O&M Agreement": any agreement entered into by 3-C Bulgaria for the supply of services to enable 3-C Bulgaria to operate and maintain the Complex;

"Outstanding Debt":

(i) the total of the principal, interest, fees, commissions, increased costs or expenses, indemnities and Taxes outstanding, calculated on the basis of borrowings, and due to the Financing Parties pursuant to the Financing Agreements; and

(ii) the total of the termination and breakage costs (including any loss or cost incurred as a result of a Person terminating, liquidating, obtaining or re-establishing any hedge or related trading or supply position) and similar fees and costs (including fees or premia payable as a result of early prepayment of borrowings) due to the Financing Parties pursuant to such Financing Agreements;

and certified to the Purchaser by the Financing Parties provided that such amounts shall be reduced by the amount of any cash or the value of any other liquid assets owned by or in the possession of 3-C Bulgaria and/or 3-C Parent (including in any reserve accounts) to the extent this is not irrevocably committed to fund liabilities (including obligations to make declared dividend payments) existing at the Termination Date;

"Party": each of 3-C Parent, the Purchaser and, following the signing of the Accession Undertaking, 3-C Bulgaria individually, and **"Parties"** shall mean 3-C Parent, the Purchaser and, following the signing of the Accession Undertaking, 3-C Bulgaria, collectively;

"Performance Test": a performance test of a Unit carried out during Commissioning in accordance with the provisions of Paragraph 3 of Appendix F and **"Performance Testing"** shall be construed accordingly;

"Person": includes individuals, corporations, joint stock companies, limited companies, partnerships, joint ventures, trusts, associations, unincorporated organisations, other entities, whether public, private or commercial and any Bulgarian Authority, any Party or their Affiliates;

"Plan": the plan contained in Diagram R-7 in Appendix R;

"Primary Control": the meaning defined in Paragraph 7.2(a)(i) of Appendix G;

"Project": the design, engineering, planning, permitting, financing, construction, equipping, testing, commissioning, management, ownership, operation and maintenance of the Complex and all activities related thereto in accordance with the provisions of this Agreement;

"Project Agreements": this Agreement, the Assignment of Receivables, the EPC Agreement(s), the Financing Agreements, the Fuel Supply Agreements, the Limestone Supply Agreement(s), the O&M Agreement, the Project Services Agreement(s), the Project Support Letter, the Rail Transport Agreements, the Site Agreement, the Waste Disposal Agreement, any agreement expressly identified in and required to be entered into in accordance with any such agreement and any other agreement required for the implementation of the Project;

"Project Schedule": the programme of key dates for the implementation of the Project, such programme as anticipated at the date of this Agreement (but without any such date being binding on the Parties) being contained in Appendix D;

"Project Services Agreement": an agreement between 3-C Bulgaria and a wholly owned Affiliate of The AES Corporation under which 3-C Bulgaria may appoint such Affiliate to source, procure and manage any or all of the Fuel and limestone supply, waste disposal and construction services for the Project for which purpose the Affiliate may enter into any of the Fuel Supply Agreements, the Limestone Supply Agreement, the EPC Agreement(s) and/or the Waste Disposal Agreement provided that payments from 3-C Bulgaria to such Affiliate under the Project Services Agreement shall be limited to the reimbursement of costs and expenses plus Value Added Tax incurred by such Affiliate to third parties;

"Project Support Letter": the signed undertaking of the Government in support of the Project, a copy of which is contained in Appendix S;

"Prudent Operating Practices": at a particular time, standards of practice attained by exercising that degree of skill, diligence, prudence and foresight which could reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances, provided that Prudent Operating Practices are not intended to be limited to the optimum practice, method or technique to the exclusion of all others, but rather to be a range of possible practices, methods and techniques each meeting the standard set forth above, any one of which could reasonably be expected to achieve the desired result in a manner reasonably commensurate with safety, performance, dependability, efficiency and economy and in any case which is in compliance with the Legal Requirements applicable to the Bulgarian energy sector;

"Purchaser": NEK and each of its legal successors and permitted assigns and transferees having responsibility for performance of any actions which are the subject of rights and obligations of NEK under this Agreement;

"Purchaser Event of Default": the meaning specified in Clause 15.4;

"Purchaser Forced Outage": any condition which relates to the Grid System to the extent such condition was not caused by a breach of a Project Agreement by 3-C Bulgaria or its Affiliates or their contractors (which breach was not caused by an Unusual Event), which materially and adversely affects the ability of 3-C Bulgaria to deliver the Net Electrical Energy Output to the Purchaser at the Delivery Point;

"Purchaser Invoice Dispute": the meaning given to it in Clause 10.5(b);

"Purchaser Related Event": a Bulgarian Authority Action, a Bulgarian Incident, a Force Majeure Event (declared by the Purchaser notwithstanding that such Force Majeure Event may also affect 3-C Bulgaria), a Purchaser Forced Outage, a Purchaser Event of Default, the raising by the Purchaser (for any reason) of an objection to a Project Agreement in breach of Clause 3.2(d) or the breach by the Purchaser of any of its obligations hereunder;

"Rail Transport Agreements": the sub-contracts entered into between (1) the suppliers of waste disposal services and Bulgarski Durzhavni Zheleznitzi (Bulgarian State Railways) EAD for the transportation of fly ash and flue gas desulphurisation gypsum wastes from the Complex under the Waste Disposal Agreement and (2) the supplier(s) of limestone under the Limestone Supply Agreement(s) and Bulgarski Durzhavni Zheleznitzi (Bulgarian State Railways) EAD for the transportation of limestone to the Complex;

"Rating Factor": the aggregate of the Contracted Capacities of both Units as at the Termination Date divided by 600 MW provided that if the Termination Date occurs prior to the Date of Full Commercial Operation the Rating Factor shall be one (1);

"Reactive Power": the meaning given to it in Paragraph 4.1 of Appendix A;

"Reference Date": the date of this Agreement;

"Regulator": that Bulgarian Authority having authority under the Energy Act to exercise regulatory decisions connected with pricing in respect of this Agreement, currently being SAEER until 31 December 2001 and SERC thereafter;

"Reimbursements": reimbursements determined for each Unit in accordance with Appendix A, Paragraph 5;

"Reliability Establishment": the meaning specified in Paragraph 4 of Appendix F;

"Required Date of Commercial Operation": that date which is thirty-six (36) Months after the Construction Start Date or the Long Stop Construction Start Date (whichever is the earlier);

"Required Date of Full Commercial Operation": that date which is forty-two (42) Months after the Construction Start Date or the Long Stop Construction Start Date (whichever is the earlier);

"Reserve": a Unit is considered to be in Reserve when it is disconnected from the Grid System and this is not attributable to a Non-Scheduled Outage or a Scheduled Outage;

"Residual Value": an aggregate amount equal to the present value of Capacity Payments calculated on the following basis:

(a) $FCP_m = 0.25 * F_{CR} * AP$ (as such expressions are defined in Paragraph 1 of Appendix A);

(b) to be in respect of a period commencing immediately following the date for expiry of the original Term (had this Agreement not terminated earlier) and to continue for ten (10) Years thereafter;

(c) to assume Scheduled Outages occur during such ten (10) year period with a frequency and duration consistent with those planned during the Term, as described in Annex A-2 of Appendix A; and

(d) discounting such Capacity Payments to the date of Transfer Closing at the rate of seventeen and a half per cent (17.5%) per annum;

"SAEER": the State Agency of Energy and Energy Resources constituted under the Energy Act and its legal successors from time to time;

"Scheduled Outage": the meaning given to it in Clause 7.5(a);

"Secondary Control": the meaning given to it in Clause 7.2(b)(i) of Appendix G;

"Second Commissioning Date": the date which is three (3) Months before the Required Date of Full Commercial Operation or such earlier date as 3-C Bulgaria may specify by notice given to the Purchaser not less than one hundred and twenty (120) Days before such earlier date provided that if such notice of an earlier date expires on or before the expiry of thirty (30) Months after the Effective Date, the Purchaser's approval to such date (not to be unreasonably withheld or delayed) shall first be obtained;

"Second Unit" or **"Unit 2"**: the second to be Commissioned of two power generating units to be located at the Site and described in Appendix B;

"Security Stock": the meaning given to it in Clause 9.2;

"SERC": the State Energy Regulatory Commission of Bulgaria constituted under the Energy Act and its legal successors from time to time;

"Shut-Down": the operation culminating in the opening of the circuit breakers in respect of a Unit and its resulting disconnection from the Grid System, whether or not on the instruction of the System Controller;

"Shut-Down and Start-Up Cycles": the cycle resulting in the Shut-Down of a Unit and its subsequent Start-Up;

"Site": the land on which any part of the Complex is to be located together with all property rights thereto, as more particularly described in Appendix H and the Site Agreement;

"Site Agreement": the agreement to be executed between some or all of the Purchaser, 3-C Bulgaria and/or its Affiliates, MMI, Brikel EAD and other relevant parties and addressing issues of ownership, rights of way, easements, site services and related matters affecting the Site and neighbouring real estate for the purposes of the Project, including providing for the transfer of ownership in and title to the Site to 3-C Bulgaria:

(a) clear of any surface structures or other debris and free of any liens or other encumbrances (except as specified in the Site Agreement or as provided by Legal Requirements); and

(b) by such date as shall enable 3-C Bulgaria to apply for and obtain any Governmental Approvals required for implementation of the Project for which ownership in and title to the Site must first be vested in 3-C Bulgaria; and

(c) in a form to be agreed between the Parties in accordance with Clause 14.1(a)(ii);

"Start-Up": a Cold Start, a Warm Start or a Hot Start as the circumstances may require;

"Sudden and Accidental Pollution": in so far as this occurs at or originates from the Complex or the Site, pollution and/or contamination of buildings or other structures or of water or land or atmosphere and/or loss, damage or injury directly or indirectly caused by such pollution or contamination where this is caused by a sudden, unintended and unexpected happening during the relevant period and which results in personal injury, bodily injury or loss of or physical damage to or destruction of tangible property or loss of use of property damaged or destroyed;

"Surplus Capacity": is that Capacity of the Unit (in MW) in excess of Contracted Capacity which 3-C Bulgaria has offered in writing to the Purchaser in respect of the relevant Availability Period and which the Purchaser has at its option and in its sole discretion accepted, such acceptance to be via the Dispatch Instructions in accordance with Paragraph 5.5(a) of Appendix G (in the case of remote control) or the "*Generation Schedule*" in accordance with Paragraph 5.5(b) of Appendix G (in the case of local control);

"System Charges": charges determined for each Unit in accordance with Appendix A, Paragraph 4;

"System Operator": the Person in the Bulgarian electricity system which regulates the operational status of the generating, transmission and distribution facilities in accordance with applicable Legal Requirements;

"Tax": any and all forms of taxes and fees, including any imposition, duty, assessment, excise, surcharge, tariff, toll, fee, Value Added Tax, contribution, stamp tax, levy or similar charge applicable in Bulgaria, including all employment taxes, any deductions or withholdings of any sort (including Withholding Taxes) and those pertaining to any

import or export and all penalties, costs, expenses and interest relating to the foregoing;

"Technical Limits": the limits and constraints described in Appendix C relating to the operation and maintenance of each Unit and the delivery of the Net Electrical Energy Output to the Delivery Point;

"Term": the meaning specified in Clause 15.2;

"Termination Date": the meaning given to it in Clause 15.1;

"Tested Capacity": (expressed in MW) is the greater of:

(a) that Capacity of the Unit (which may be greater than the Contracted Capacity of the Unit) determined according to the most recent Availability Test, adjusted to take account of variations in test conditions from the design test conditions as set forth in Annex F-1 of Appendix F; and

(b) the Actual Available Capacity for any Availability Period since the most recent Availability Test;

"Testing Factor" or "TF": the aggregate of the Tested Capacities of both Units (confirmed by Availability Tests not earlier than thirty (30) Days prior to the Termination Date) divided by the aggregate of the Contracted Capacities plus the Third Party Capacities of both Units at the Termination Date (the Testing Factor not to exceed 100%) provided that:

(i) if such quotient is less than 100% as a result a Purchaser Related Event, the Testing Factor shall equal 100%; and

(ii) if an Availability Test cannot be conducted because of a Purchaser Related Event not included in (iii) below, the Testing Factor shall equal 100%; and

(iii) if an Availability Test cannot be conducted because of either a Bulgarian Incident or a Force Majeure Event, the Testing Factor shall be the average of the aggregate of the Declared Capacities plus the Third Party Capacities for both Units during the twelve (12) Months preceding the Termination Date divided by the average of the aggregate of the Contacted Capacities of both Units during such period (not to exceed 100%);

"The AES Corporation": a company registered in the USA whose registered office is at 1001 North 19th Street, Arlington, Virginia 22209 USA;

"Third Party Capacity": that Capacity of a Unit which 3-C Bulgaria has contracted to sell to a third party as permitted under this Agreement.

"Threshold": an amount equal to one hundred thousand Euros (€100,000);

"TPP": the existing Maritza East 1 thermal power plant and its related facilities as described in Paragraph 2.1 of Appendix B, the location of which is shown on the Plan;

"Transfer Closing": completion of the Complex Transfer in accordance with Clause 16.2;

"Transfer Security": a parent company guarantee to be issued by The AES Corporation guaranteeing the obligations of 3-C Bulgaria under Appendix I, in the form contained in Appendix P;

"Transition Date": the date on which the first to occur of Bulgarian Market Liberalisation, EU Accession and NEK Privatisation takes place;

"Unit": individually either the First Unit or the Second Unit and "**Units**" shall mean the First Unit and the Second Unit collectively;

"Unit Minimum Load": the meaning specified in Paragraph 1(b) of Appendix C;

"Unusual Event": the meaning specified in Clause 13.1;

"Unusual Event Notice": the meaning specified in Clause 13.6(a);

"Value Added Tax": that Tax which has to be charged by the seller of goods and/or the provider of services as a percentage of the value of such goods and/or services in accordance with any Legal Requirement (at the date of this Agreement the Bulgarian Law on Value Added Tax) and which has the character of value added tax and any Tax similar or equivalent to value added tax or turnover tax replacing or introduced in addition to or in substitution for any of the same;

"Warm Starts": the starting-up of a Unit after more than eight (8) hours but less than fifty (50) hours' continuous shutdown;

"Waste Disposal Agreement": a waste disposal agreement to be entered into by 3-C Bulgaria or its Affiliate for the disposal of fly ash and flue gas desulphurisation gypsum wastes arising from the operation of the Complex;

"Withholding Tax": that Tax which is charged or levied or otherwise withheld by any Bulgarian Authority on any dividend or other distribution or payment by 3-C Bulgaria to its Affiliates in connection with the repatriation of such dividend or other distribution or payment from Bulgaria to any other jurisdiction;

"Wilful Misconduct": in relation to a Party is an intentional or reckless disregard by any of its directors, other corporate officers, employees, agents or contractors of any provision of this Agreement but shall not include any error of judgement or mistake made by such Person in the exercise, in good faith, of any function, authority or discretion properly conferred upon that Person;

"Year": a period of twelve (12) consecutive Months;

"3-C Bulgaria": AES-3C Maritza Iztok 1 EOOD being the Affiliate of 3-C Mauritius, incorporated in Bulgaria, which will become a Party to this Agreement in accordance with Clause 14.5, and each of its legal successors and permitted assigns and transferees having responsibility for performance of any actions which are the subject of rights and obligations of 3-C Bulgaria under this Agreement;

"3-C Event of Default": the meaning specified in Clause 15.3;

"3-C Invoice Dispute": the meaning given to it in Clause 10.5(a);

"3-C Mauritius": the second named Party to this Agreement; and

"3-C Parent": 3-C Mauritius and each of its legal successors and permitted assigns and transferees having responsibility for performance of any actions which are the subject of rights and obligations of 3-C Parent under this Agreement.

1.2 **Interpretation:** In this Agreement, unless the context requires otherwise:

(a) all Clause, Paragraph, Appendix and Annex titles and headings are for convenience only and neither constitute a part of this Agreement nor shall be utilised in construing any meaning hereunder;

(b) words denoting the singular shall include the plural and vice versa and words denoting one gender shall include all others;

(c) references to Clauses, Paragraph, Appendices and Annexes are, unless otherwise noted, references to Clauses in, Appendices to and Paragraphs and Annexes of Appendices to this Agreement;

(d) the terms "include", "including" and "of the type" shall mean "without limitation" unless otherwise stated;

(e) a reference to any agreement (other than this Agreement) shall be a reference to that agreement as amended, varied, added to, substituted, replaced, renewed or extended (an **"Amendment"**);

(f) no reference to **"assistance"**, **"co-operation"**, **"good faith"**, **"reasonable efforts"** or any cognate thereof shall be interpreted so as to require any Party to take or refrain from taking any action which would materially adversely affect its rights or materially increase its obligations (including its costs or expenses) under the terms and provisions of this Agreement unless specifically required hereunder;

(g) where, in this Agreement, an obligation is imposed on a Party to use **"best efforts"** or any cognate thereof, the Purchaser on the one hand and 3-C Bulgaria and/or 3-C Parent on the other hand (as the case may be) shall be required to take or refrain from taking (as the case may require) action which may materially adversely affect its rights or materially increase its obligations (including its costs and expenses) under the terms and provisions of this

Agreement in complying with such obligation but only to the extent that such actions are permitted by Legal Requirements;

(h) something shall be considered to be **"material"** if, by reference to the context, event, circumstance, characteristic, quality, state of affairs or performance to which the term "material" is applied under or pursuant to this Agreement (each, a **"material item"**), it is or may be considered essential or important to any Person who may be affected by the occurrence or existence of a material item pursuant to or by reference to any provision of this Agreement, as judged by the standard of an impartial Person acting fairly and reasonably having regard to all the circumstances which were or ought reasonably to have been known, when any determination of a material item is required to be made, and **"materially"** shall be construed accordingly;

(i) no portion or part of this Agreement shall be interpreted for or against a Party solely on the basis of drafting responsibility;

(j) except where the context otherwise requires, where a Party is required to perform an obligation hereunder, it shall perform such obligation expeditiously and without delay and, except where the context otherwise requires, where its consent or approval is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed and, except where another period is specified in this Agreement, a consent or approval shall be considered to be unreasonably delayed if a decision has not been forthcoming within twenty (20) Business Days of the relevant Party receiving the request for consent or approval;

(k) in the event of conflict between the provisions of Clauses 1 to 22 and any of the Appendices to this Agreement, the former shall prevail and in the event of any conflict between the provisions of Appendix A and the subsequent Appendices, the former shall prevail;

(l) unless otherwise specified, references to any statute or statutory provision shall include any statute or statutory provision which amends or replaces or has amended or replaced such statute or statutory provision and shall include any subordinate legislation made under any such statute or statutory provision;

(m) a reference to any Person includes its successors and permitted assignees or transferees;

(n) all references to time in this Agreement are to Bulgarian local time except where specified; and

(o) where there is a reference to Capacity Payments or Energy Payments being foregone as result of any Unusual Event, this shall be by comparison to:

(i) that part of the Capacity Payments as shown in the Financial Model, to the extent derived from the Contracted Capacity at the date the comparison falls to be made; and

(ii) Energy Payments determined on the basis that the Complex is dispatched at the Minimum Monthly Quantity;

adjusted in each case in accordance with the provisions of this Agreement.

2. SALE, PURCHASE AND DELIVERY

2.1 Sale and Purchase

(a) From and after the Date of Commercial Operation and subject to the terms of this Agreement:

(i) 3-C Bulgaria agrees to make Available the Capacity of Unit 1 on the terms of this Agreement and to deliver to the Purchaser the Net Electrical Energy Output generated thereby in accordance with Dispatch Instructions;

(ii) the Purchaser agrees to accept all such Net Electrical Energy Output, to pay the Energy Payments and to pay the Capacity Payments for the Capacity of Unit 1 to the extent made available in accordance with the provisions of this Agreement; and

(iii) the Purchaser agrees to pay for such Ancillary Services as are provided by 3-C Bulgaria through Unit 1 from time to time in accordance with the terms of this Agreement.

(b) From and after the Date of Full Commercial Operation and subject to the terms of this Agreement:

(i) 3-C Bulgaria agrees to make Available the Capacity of both Units on the terms of this Agreement and to deliver to the Purchaser the Net Electrical Energy Output generated thereby in accordance with Dispatch Instructions;

(ii) the Purchaser agrees to accept all such Net Electrical Energy Output to pay the Energy Payments and to pay the Capacity Payments for the Capacity of each Unit to the extent made available in accordance with the provisions of this Agreement; and

(iii) the Purchaser agrees to pay for such Ancillary Services as are provided by 3-C Bulgaria through both Units from time to time in accordance with the terms of this Agreement.

2.2 Sales During Commissioning:

During the Commissioning of each Unit the Purchaser shall purchase and take delivery of all Net Electrical Energy Output generated by a Unit undergoing Commissioning and reimburse 3-C Bulgaria in respect of sums paid by 3-C Bulgaria, its Affiliates or

their contractors under the Fuel Supply Agreements, the Limestone Supply Agreement(s), the Waste Disposal Agreement and any separate agreement for the supply of water or other consumables used in the generation of such Net Electrical Energy Output.

2.3 Point of Delivery: The place for delivery of the Net Electrical Energy Output supplied under Clause 2.1 or 2.2 shall be, and title to the Net Electrical Energy Output purchased by the Purchaser hereunder shall pass to the Purchaser at, the Delivery Point.

2.4 Sales to Third Parties

(a) Subject to this being permitted by Legal Requirements and to its obligations under this Agreement, 3-C Bulgaria shall be entitled throughout the Term to sell to third parties:

(i) any Capacity in excess of the Contracted Capacity; and/or

(ii) any electricity which can be generated by a Unit and which is not required by NEK under this Agreement;

and 3-C Bulgaria shall notify the System Operator of the terms of such sales to enable them to be coordinated with the Purchaser's own dispatch requirements.

(b) For the purpose of enabling 3-C Bulgaria to enter into and perform its obligations under any sales arrangements referred to in Clause 2.4(a), the Purchaser shall, at 3-C Bulgaria's request and cost, provide all assistance reasonably required by 3-C Bulgaria to effect such sales, either directly or through the Purchaser or other intermediaries. Such assistance shall include, to the extent permitted under the Legal Requirements and subject to physical delivery constraints, access to the Grid System, dispatch of Third Party Capacity and the transmission of such Net Electrical Energy Output at tariffs which are not Discriminatory.

2.5 Effects of Market Liberalisation:

(a) Subject to this being permitted by Legal Requirements and its other obligations under this Agreement, 3-C Bulgaria shall use its reasonable efforts:

(i) to identify substitute eligible customers for the purchase of the Contracted Capacity of the Units and the Net Electrical Output generated thereby in substitution for the Purchaser; and

(ii) to enter into binding power purchase arrangements with such eligible customers and to de-rate the Contracted Capacity of the Units to the extent of such sales;

provided that the acceptability of such eligible customers and the terms of such power purchase arrangements shall be within the sole discretion of 3-C Bulgaria.

(b) The provisions of Clause 2.4(b) shall apply in respect of any Third Party Capacity contracted under Clause 2.5(a).

(c) In the event that 3-C Bulgaria shall decide to take advantage of the provisions of this Clause 2.5, it shall notify the Purchaser of such decision and include with such notice information concerning the proposed extent and timing of the relevant de-rating.

3. OBLIGATIONS OF 3-C BULGARIA

3.1 **General Obligations of 3-C Bulgaria**: Subject to the other provisions of this Agreement, 3-C Bulgaria shall cause, directly or through its Affiliates and its/their contractors or sub-contractors, and be responsible for:

(a) the implementation of the Project;

(b) arranging all necessary financing for the Project;

(c) the due and proper application for, and use of diligent effort to obtain, all Governmental Approvals required to be obtained by 3-C Bulgaria in order to implement the Project including all Governmental Approvals listed in Part 1 of Appendix J;

(d) the awarding of all contracts, the appointment of all professional advisors and the purchase of all equipment, supplies and materials which may be necessary to complete the Project;

(e) procuring, purchasing and storing Fuel and limestone as necessary to operate the Complex in accordance with the requirements of this Agreement;

(f) recruiting, training and managing all labour (local or foreign) necessary or desirable to construct, operate and maintain the Complex during the Term and obtaining all visas and work permits for foreign personnel;

(g) selling or otherwise disposing of all waste materials which may be generated at the Complex;

(h) performing its obligations under Clause 14.1(b) and providing the Purchaser all notifications required under Clause 14.2; and

(i) providing the Purchaser with assistance, subject to the exercise of all due diligence by the Purchaser, in obtaining and renewing the Governmental Approvals referred to in Clause 4.1(a)(iv).

3.2 **Project Agreements:**

(a) As soon as possible after the date of this Agreement 3-C Bulgaria shall, prior to the signing of the Project Agreements or following their signing provided such Project Agreements shall remain conditional until the approval of the Purchaser under this Clause has been given, provide the Purchaser with copies of each such contract in their governing language. If the governing language is not Bulgarian, 3-C Bulgaria may but shall not be obliged to provide a translation of such contract to the Purchaser but in any such case, 3-C Bulgaria shall have no responsibility for the accuracy of such translation. 3-C Bulgaria may proceed to sign any such contract (or any signed contract may become unconditional) unless there has been an objection by the Purchaser in accordance with Clause 3.2(d)(i). Referral for dispute resolution under this Clause shall not be required in connection with:

(i) spot purchases of oil as Fuel provided these occur at or below the prevailing market price in Bulgaria at the time of purchase; or

(ii) any Project Agreement to which neither 3-C Bulgaria nor any of its Affiliates is a party including the Rail Transport Agreements and sub-contracts under the EPC Agreement(s).

(b) Forthwith upon execution of any of the Project Agreements required to be referred to the Purchaser under Clause 3.2(a), 3-C Bulgaria shall provide to the Purchaser a copy thereof initialled by 3-C Bulgaria for the purposes of identification.

(c) 3-C Bulgaria shall, and shall procure that each of its Affiliates shall, perform its obligations under and observe all the terms of the Project Agreements to which it is a party and shall not (and shall procure that no Affiliate shall):

(i) terminate or permit the termination of any Project Agreement to which it is a party otherwise than in accordance with its terms; or

(ii) make or agree to any material amendment or variation of any Project Agreement to which it is a party; or

(iii) in any material respect depart from or waive or fail to enforce any rights it may have under any Project Agreement to which it is a party; or

(iv) enter into any agreement or document relating to the Project which would materially affect the interpretation or application of any Project Agreement of which 3-C Bulgaria or its Affiliates have a copy;

unless the relevant document has first been provided or the proposed course of action has first been notified in writing to the Purchaser (but only, in the case of Project Agreements, to the extent required under Clause 3.2(a)) and there has been no objection by the Purchaser under Clause 3.2(d)(i). If the governing language is not Bulgarian, 3-C Bulgaria may but shall not be obliged to provide

a translation of such agreement to the Purchaser but in any such case, 3-C Bulgaria shall have no responsibility for the accuracy of such translation.

(d) (i) Within twenty one (21) Days (if a Bulgarian language version of the relevant agreement or proposal has been provided to the Purchaser under Clause 3.2(a) or Clause 3.2(c), as the case may be) or thirty five (35) Days (if a Bulgarian language version of the relevant agreement or proposal has not been provided to the Purchaser under Clause 3.2(a) or Clause 3.2(c), as the case may be) of receipt of a document or notification under Clause 3.2(a) or Clause 3.2(c), as the case may be, the Purchaser may object on the basis of one of the grounds set out in Clause 3.2(d)(v) and to be a valid objection such objection shall be accompanied by comments of the Purchaser explaining the reasons for such objection;

(ii) the Parties shall promptly thereafter meet and discuss such objection so as to address and remove the concerns of the Purchaser on mutually agreed terms;

(iii) in the event of failure by the Parties to reach agreement in respect of such objection within fourteen (14) Days of receipt of such objection, the matter shall be referred for dispute resolution in accordance with Clause 18;

(iv) in the absence of any valid objection by the Purchaser under Clause 3.2(d)(i), the Purchaser shall be deemed to have approved the notification under Clause 3.2(a) or Clause 3.2(c), as the case may be;

(v) the only grounds for objection are that the proposed Project Agreement or any change to the Project Agreement or any proposed course of action under Clause 3.2(c) will or may reasonably be expected to give rise to the result that:

(1) the creditworthiness of or financial or other resources available to 3-C Bulgaria are materially and adversely affected in a manner which would be materially adverse to the Purchaser's interests under this Agreement;

(2) the performance of such Project Agreement by 3-C Bulgaria or its Affiliates under such modification or new contractual obligation shall be or become legally incompatible with Legal Requirements;

(3) the terms of such Project Agreement will conflict with the provisions of this Agreement or impair the performance or implementation of this Agreement in a manner which would be materially adverse to the Purchaser's interests under this Agreement; or

(4) any costs or expenses which are passed through to or borne by the Purchaser under the terms of this Agreement shall be increased as a result of any such proposal or change by more than the Threshold in any Year except where this:

(A) has been approved by the Regulator; or

(B) is otherwise expressly provided for under this Agreement (including under the escalation provisions contained in Appendix A);

provided always that the Purchaser shall not be entitled to raise any such objection in so far as the requirement for any new Project Agreement or the termination of any Project Agreement or the amendment of any Project Agreement is necessitated through the occurrence of a Change in Law, a Purchaser Related Event or a Force Majeure Event declared by 3-C Bulgaria; and

(vi) the objection, non-objection or deemed approval by the Purchaser of any amendment or variation of a provision of or the termination of a Project Agreement or the creation of a new Project Agreement shall be without any liability whatsoever on the part of the Purchaser (except for liability arising from a breach of Clause 3.2(d)(v)) and shall not lessen, diminish or affect in any way the obligations of 3-C Bulgaria and/or 3-C Parent under this Agreement except as provided for under this Agreement or as otherwise agreed by the Purchaser.

(e) If at any time:

(i) any Project Agreement required to be referred to the Purchaser under Clause 3.2(a) is terminated; or

(ii) an amendment or variation is made to any Project Agreement required to be referred to the Purchaser under Clause 3.2(a); or

(iii) 3-C Bulgaria or any of its Affiliates is granted a waiver or release of any of their obligations under any Project Agreement required to be referred to the Purchaser under Clause 3.2(a); or

(iv) any agreement is entered into which would affect the interpretation or application of any of the Project Agreements required to be referred to the Purchaser under Clause 3.2(a); or

(v) any additional Project Agreement required to be referred to the Purchaser under Clause 3.2(a) is entered into;

then 3-C Bulgaria shall deliver to the Purchaser a conformed copy of each such document or (in so far as it is not in writing) a true and complete record thereof

within twenty one (21) Days of the date of its execution or creation, certified as a true copy by an officer of 3-C Bulgaria.

3.3 **Construction:**

(a) 3-C Bulgaria shall keep the Purchaser informed every three (3) Months (commencing three (3) Months after the Effective Date) of the progress of the design, engineering, planning, permitting, construction, equipping, testing and Commissioning of the Complex and shall provide to the Purchaser a copy, as soon as the same is completed, of each of the progress reports prepared from time to time in respect thereof by the Independent Engineer.

(b) 3-C Bulgaria shall:

(i) ensure that the Purchaser and any representatives appointed by the Purchaser are afforded reasonable access to the Site at any time upon their giving 3-C Bulgaria reasonable notice, provided that such access does not interfere with the construction works or Commissioning or operation of the Complex or expose any Person on the Site to any danger;

(ii) make available for inspection by the Purchaser and any representatives appointed by the Purchaser at the Site copies of all plans and designs (other than any proprietary information of 3-C Bulgaria, its Affiliates or any of their contractors or sub-contractors) in relation to the construction of the Complex or any part thereof (which plans and designs shall be subject to revision at the discretion of 3-C Bulgaria) upon their giving 3-C Bulgaria reasonable notice;

(iii) within six (6) Months following the Date of Commercial Operation, supply the Purchaser with an electronic copy and two (2) sets of white print copies (or equivalent) of all "as built" plans and designs required for the operation and maintenance of the First Unit and related common parts of the Complex;

(iv) within six (6) Months following the Date of Full Commercial Operation, supply the Purchaser with an electronic copy and two (2) sets of white print copies (or equivalent) of all "as built" plans and designs required for the operation and maintenance of the Second Unit and any additional common facilities comprised in the Complex; and

(v) where modifications to any part of the Complex are undertaken following delivery of the "as built" drawings for that section of the Complex, within six (6) Months of the completion of such modifications supply the Purchaser with an electronic copy and two (2) sets of white print copies (or equivalent) of all "as modified" plans and designs.

(c) 3-C Bulgaria:

(i) accepts that any engineering review or inspection conducted by the Purchaser is solely for the Purchaser's own information and accordingly by conducting such review or inspection the Purchaser makes no representation as to the engineering soundness of the Complex;

(ii) shall in no way represent to any third party that, as a result of any review or inspection by the Purchaser, the Purchaser is responsible for the engineering soundness of the Complex;

(iii) shall ensure that all information supplied to the Purchaser pursuant to this Clause 3.3 is, as of the date such information is submitted, accurate and complete in all material respects to the reasonable knowledge of 3-C Bulgaria; and

(iv) shall, subject to the other provisions of this Agreement, be solely responsible for the economic and technical feasibility, operational capacity and reliability of the Complex.

(d) The Purchaser agrees that:

(i) any information submitted to the Purchaser by 3-C Bulgaria pursuant to this Clause 3.3 is solely for the Purchaser's use to monitor the progress of the Project; and

(ii) that 3-C Bulgaria makes no representation or warranty (either implied or express) as to the completeness or accuracy of any information submitted to the Purchaser pursuant to this Clause 3.3 other than as stated in Clause 3.3(c)(iii).

(e) 3-C Bulgaria shall commence or shall procure the commencement of construction of the Complex by a date (the **"Construction Start Date"**) not later than the Long Stop Construction Start Date and for this purpose it shall be sufficient for 3-C Bulgaria or its Affiliates to have issued to each EPC Contractor a full notice to proceed with all of the works under its EPC Agreement but not a limited notice to proceed with some of such works.

(f) Save as otherwise provided in this Agreement and/or the Site Agreement;

(i) 3-C Bulgaria shall be responsible at its sole cost, expense and risk for procuring that the Site is suitable for the Project; and

(ii) the Purchaser makes no warranties or representations in respect of the condition of the Site or the suitability of the Site for the Project.

3.4 **Costs:**

(a) Except as specifically allocated under this Agreement or any other Project Agreement to the Purchaser, all costs and expenses incurred by 3-C Bulgaria and/or its Affiliates in connection with the Project shall be borne by 3-C Bulgaria and/or the relevant Affiliate.

(b) 3-C Bulgaria shall make all payments in respect of Governmental Approvals which are required in order to obtain connection of the Complex to the Grid System pursuant to Legal Requirements including the Council of Ministers Decree No 76 dated 16 May 2000 approving "Regulation for Interconnection of Generating Enterprises and Users to the Transmission and Distribution Grid Systems"

4. OBLIGATIONS OF THE PURCHASER

4.1 General Obligations of the Purchaser:

(a) The Purchaser shall:

(i) perform its obligations under Clause 14.1(c) and provide to 3-C Bulgaria all notifications required under Clause 14.2;

(ii) provide at the Site all electricity required by 3-C Bulgaria for construction and Start-Ups (the cost of which shall be invoiced to and be borne by 3-C Bulgaria at the standard tariff rate for large industrial (high voltage) consumers interconnected to the Grid System);

(iii) provide timely co-operation and assistance in connection with the arrangements of 3-C Bulgaria and 3-C Parent to finance the Project including (1) provision of true, complete and correct responses to all reasonable requests for information regarding the Purchaser's operations and (2) discussing the Project with the Financing Parties and providing to such parties information reasonably requested by 3-C Bulgaria regarding the Purchaser;

(iv) make due and proper application for and use diligent efforts to obtain all Governmental Approvals required for the performance of the Purchaser's obligations under this Agreement including without limitation all Governmental Approvals listed in Part 2 of Appendix J; and

(v) complete or cause to be completed the demolition or relocation away from the Site of all existing pipes, buildings, power cables and structures of any nature whatsoever located above ground on the Site and the relocation away from the Site of the following underground pipes presently on the Site, in each case by the Effective Date:

(1) the steam pipe rack crossing the Site;

(2) the buried demineraliser make-up water line that crosses the

power block for the Complex; and

(3) the existing underground sewerage line from Brikel EAD's briquette plant.

(b) The Purchaser shall assist 3-C Bulgaria, subject to the exercise of all due diligence by 3-C Bulgaria, in obtaining and renewing the Governmental Approvals referred to in Clause 3.1(c) in a timely manner.

(c) The Purchaser shall perform its obligations under and observe all the terms of the Project Agreements to which it is a party, shall not commit, cause, or allow to occur a Purchaser Event of Default and shall not:

(i) terminate or permit the termination of any Project Agreement to which it is a party otherwise than in accordance with its terms;

(ii) make or agree to any material amendment or variation of any Project Agreement to which it is a party;

(iii) in any material respect depart from or waive or fail to enforce any rights it may have under any Project Agreement to which it is a party; or

(iv) enter into any agreement or document relating to the Project which would materially affect the interpretation or application of any Project Agreement;

without first obtaining the written consent of 3-C Bulgaria.

4.2 Interconnection Facilities, Services and Utilities:

(a) The Purchaser, subject to Clause 3.4(b) but otherwise at its own cost and expense, shall cause the Interconnection Facilities to be constructed and made ready to receive the Net Electrical Energy Output in accordance with the provisions of Appendix L by not later than 22 Months after the Construction Start Date. For this purpose, the Purchaser undertakes to co-ordinate its actions and co-operate with 3-C Bulgaria, its contractors and the Independent Engineer.

(b) The Purchaser shall, at its own cost and expense, maintain the Interconnection Facilities and the rest of the Grid System in compliance with Prudent Operating Practices and all applicable Legal Requirements throughout the Term.

(c) The provision of water supply for cooling at the Complex shall be provided for in the Site Agreement.

(d) The Purchaser shall assist 3-C Bulgaria, subject to the exercise of all due diligence by 3-C Bulgaria, to arrange for all other necessary utilities (electricity, gas, sewerage, potable water, telecommunications) to be made available at the

Site at prices specified in this Agreement, the Site Agreement and otherwise at commercially prevailing rates and at the cost and expense of 3-C Bulgaria in as timely a manner as is necessary for the construction, testing, Commissioning and operation of the Complex.

4.3 **Costs**: Except as provided in the Site Agreement or in this Clause 4, all costs and expenses incurred in connection with the performance of this Clause 4 shall be borne by the Purchaser.

5. SECURITY FOR 3-C BULGARIA'S OBLIGATIONS

5.1 **Development Performance Guarantee**: Within ten (10) Business Days after the date of this Agreement 3-C Bulgaria shall provide to the Purchaser the Development Performance Guarantee, duly executed by The AES Corporation, as security for the performance by 3-C Bulgaria of its obligations under Clause 14.4(a).

5.2 **Construction Performance**:

(a) If the Date of Commercial Operation has not been achieved by 3-C Bulgaria by the Required Date of Commercial Operation, then for each Day occurring between (but not including) the Required Date of Commercial Operation and the first to occur of:

(i) the Long Stop Date of Commercial Operation; and

(ii) the Date of Commercial Operation;

3-C Bulgaria shall pay to the Purchaser the Daily Liquidated Amount. This shall be in addition to any amount due under Clause 5.2(b) and shall, subject to its rights under Clause 15, be the Purchaser's sole remedy for 3-C Bulgaria's failure to achieve the Date of Commercial Operation.

(b) If the Date of Full Commercial Operation has not been achieved by 3-C Bulgaria by the Required Date of Full Commercial Operation, then for each Day occurring between (but not including) the Required Date of Full Commercial Operation and the first to occur of:

(i) the Long Stop Date of Full Commercial Operation; and

(ii) the Date of Full Commercial Operation;

3-C Bulgaria shall pay to the Purchaser the Daily Liquidated Amount. This shall be in addition to any amount due under Clause 5.2(a) and shall, subject to its rights under Clause 15, be the Purchaser's sole remedy for 3-C Bulgaria's failure to achieve the Date of Full Commercial Operation.

(c) The aggregate liability of 3-C Bulgaria under Clauses 5.2(a) and 5.2(b) shall not exceed ten million nine hundred and fifty thousand Euros (€ 10,950,000), as increased in accordance with Clauses 6.5(e) and/or 6.5(f)

(d) Following the date of this Agreement and as a condition of achieving the Effective Date 3-C Bulgaria shall provide to the Purchaser the Construction Performance Guarantee, duly executed by The AES Corporation, as security for the performance by 3-C Bulgaria of its obligations under Clauses 5.2(a) and 5.2(b).

6. COMMISSIONING AND TESTING

6.1 **Commissioning Obligations**: Each Unit shall be Commissioned in accordance with the procedures relating to Commissioning which have been agreed between the Parties according to this Agreement.

6.2 **Purchaser Attendance**: The Purchaser shall have the right to attend at the Complex on each occasion on which a test under Paragraphs 1 to 3 of Appendix F is being conducted, to inspect and witness the test and to receive a copy of the final test results in accordance with Appendix F. 3-C Bulgaria shall give to the Purchaser advance notice of any such test as specified in Appendix F in order to facilitate attendance by the Purchaser.

6.3 **Purchaser Co-operation**: The Purchaser shall co-operate with 3-C Bulgaria so as to enable 3-C Bulgaria to Commission each Unit in accordance with this Agreement and to carry out Reliability Establishment and in particular will authorise or obtain authorisation for the connection of each Unit to the Grid System and shall accept all of the Net Electrical Energy Output of each Unit to the extent reasonably required by 3-C Bulgaria for such purposes provided that to the extent 3-C Bulgaria varies its dispatch requirements during the twelve (12) hours prior to the necessary Dispatch Instruction being given, such variation shall be conditional upon the Purchaser being reasonably able to accommodate such request.

6.4 **Testing and Dates of Commercial Operation**:

(a) Performance Tests for each Unit, as the case may be, shall only be considered completed on completion to the satisfaction of the Independent Engineer of the relevant Performance Test and the issuance of an operational permit by or on behalf of the Directorate for National Construction Control pursuant to applicable Legal Requirements. A Performance Test may be completed satisfactorily, notwithstanding that the resulting Tested Capacity is less than the Contracted Capacity of the Unit.

(b) On the completion of the Performance Test for a Unit to the satisfaction of 3-C Bulgaria and the certification of such test results by the applicable Bulgarian Authority, 3-C Bulgaria shall notify the Purchaser that, with respect to the First Unit, the commercial operation of the First Unit has been achieved (the **"Date of Commercial Operation"**) and, with respect to the Second Unit, that the commercial operation of the Second Unit has been achieved (the **"Date of Full Commercial Operation"**), in each case the date of achievement being the date on which such notice is received by the Purchaser.

(c) If 3-C Bulgaria has given the Purchaser advance notice of a test in accordance with Clause 6.2 but the Purchaser has failed to attend on the notified date then this shall not prevent 3-C Bulgaria from completing the Commissioning of the relevant Unit.

6.5 **Deemed Commercial Operation and Delay:**

(a) If, due to a Purchaser Related Event occurring before the Long Stop Date of Commercial Operation, 3-C Bulgaria is unable to commence, conduct or complete construction or Commissioning of Unit 1 so as to achieve the Date of Commercial Operation then:

(i) the Date of Commercial Operation shall be deemed to have been achieved on such Day (on or before the Long Stop Date of Commercial Operation) as 3-C Bulgaria is able to demonstrate, to the reasonable satisfaction of the Independent Engineer, that it would have been able to achieve the Date of Commercial Operation if the relevant Purchaser Related Event had not occurred and the Purchaser shall be obligated to make payments (until the Date of Commercial Operation is actually achieved) determined:

(1) in accordance with Clause 13.8(b), in the case of a Purchaser Related Event which is an Unusual Event; and

(2) in the case of any other Purchaser Related Event, in accordance with Appendix A with Capacity Payments calculated using an Available Capacity equal to the Contracted Capacity of Unit 1 and Energy Payments determined in accordance with Paragraph 2 of Appendix A; and

(ii) the Required Date of Commercial Operation, the Long Stop Date of Commercial Operation, the Required Date of Full Commercial Operation and the Long Stop Date of Full Commercial Operation shall, in so far as they have not already occurred, each be extended by the number of Days 3-C Bulgaria was delayed in achieving the Date of Commercial Operation by the effects of such Purchaser Related Event; and

(iii) to the extent that Capacity Payments have been foregone as a result as a result of the Purchaser Related Event and not otherwise recovered by 3-C Bulgaria, the Term shall be extended by such number of Days as shall enable 3-C Bulgaria to receive additional Capacity Payments in an aggregate amount which, after discounting each such payment at the rate of seventeen and a half per cent (17.5%) per annum, shall equal the amount of the Capacity Payments foregone (and not otherwise recovered) by 3-C Bulgaria.

(b) If, due to a Purchaser Related Event occurring before the Long Stop Date of Full Commercial Operation, 3-C Bulgaria is unable to commence, conduct or

complete construction or Commissioning of Unit 2 so as to achieve the Date of Full Commercial Operation then:

(i) the Date of Full Commercial Operation shall be deemed to have been achieved on such Day (on or before the Long Stop Date of Full Commercial Operation) as 3-C Bulgaria is able to demonstrate to the reasonable satisfaction of the Independent Engineer that it would have been able to achieve the Date of Full Commercial Operation if the relevant Purchaser Related Event had not occurred and the Purchaser shall be obligated to make payments (until the Date of Full Commercial Operation is actually achieved) determined:

(1) in accordance with Clause 13.8(b), in the case of a Purchaser Related Event which is an Unusual Event; or

(2) in the case of any other Purchaser Related Event, in accordance with Appendix A with Capacity Payments calculated using an Available Capacity equal to the Contracted Capacity of Unit 2 and Energy Payments determined in accordance with Paragraph 2 of Appendix A; and

(ii) the Required Date of Full Commercial Operation and the Long Stop Date of Full Commercial Operation shall, in so far as they have not already occurred, be extended by the number of Days 3-C Bulgaria was delayed in achieving the Date of Full Commercial Operation by the effects of such Purchaser Related Event; and

(iii) to the extent that Capacity Payments have been foregone as a result of the Purchaser Related Event and not otherwise recovered by 3-C Bulgaria, the Term shall be extended by such number of Days as shall enable 3-C Bulgaria to receive additional Capacity Payments in an aggregate amount which, after discounting each such payment at the rate of seventeen and a half per cent (17.5%) per annum, shall equal the amount of the Capacity Payments foregone (and not otherwise recovered) by 3-C Bulgaria.

(c) If, due to a Force Majeure Event declared by 3-C Bulgaria (and which is not also a Purchaser Related Event) occurring before the Long Stop Date of Commercial Operation, 3-C Bulgaria is unable to commence, conduct or complete construction or Commissioning of Unit 1 so as to achieve the Date of Commercial Operation, then:

(i) the Required Date of Commercial Operation and the Long Stop Date of Commercial Operation shall, in so far as they have not already occurred, be extended by the number of Days 3-C Bulgaria was delayed in achieving the Date of Commercial Operation by such Force Majeure Event; and

(ii) the Term shall be extended by such number of Days as shall enable 3-C

Bulgaria to receive additional Capacity Payments in an aggregate amount which, after discounting each such payment at the rate of seventeen and a half per cent (17.5%) per annum, shall equal the amount of the Capacity Payments foregone (and not otherwise recovered) by 3-C Bulgaria and the amount of the Energy Payments foregone (and not otherwise recovered) by 3-C Bulgaria.

(d) If, due to a Force Majeure Event declared by 3-C Bulgaria (and which is not also a Purchaser Related Event) occurring before the Long Stop Date of Full Commercial Operations and declared by 3-C Bulgaria, 3-C Bulgaria is unable to conduct or complete construction or Commissioning of Unit 2 so as to achieve the Date of Full Commercial Operation, then:

(i) the Required Date of Full Commercial Operation and the Long Stop Date of Full Commercial Operation shall, in so far as they have not already occurred, be extended by the number of Days 3-C Bulgaria was delayed in achieving the Date of Full Commercial Operation by such Force Majeure Event; and

(ii) the Term shall be extended by such number of Days as shall enable 3-C Bulgaria to receive additional Capacity Payments in an aggregate amount which, after discounting each such payment at the rate of seventeen and a half per cent (17.5%) per annum, shall equal the amount of the Capacity Payments foregone (and not otherwise recovered) by 3-C Bulgaria and the amount of the Energy Payments foregone (and not otherwise recovered) by 3-C Bulgaria.

(e) If 3-C Bulgaria has not achieved the Date of Commercial Operation by the Long Stop Date of Commercial Operation it may, prior to the Long Stop Date of Commercial Operation by written notice to the Purchaser, extend the Long Stop Date of Commercial Operation by such number of Days, not exceeding twelve (12) Months, as it shall specify in such notice and the provisions of Clause 5.2(a) shall apply to the extension period. Such extension shall only become effective if, prior to the original Long Stop Date of Commercial Operation, 3-C Bulgaria has provided to the Purchaser an extension to and increase of the Construction Performance Guarantee, duly executed by The AES Corporation, in respect of the additional Daily Liquidated Amounts that may fall due in respect of the First Unit during the period of the extension.

(f) If 3-C Bulgaria has not achieved the Date of Full Commercial Operation by the Long Stop Date of Full Commercial Operation it may, prior to the Long Stop Date of Full Commercial Operation by written notice to the Purchaser, extend the Long Stop Date of Full Commercial Operation by such number of Days, not exceeding twelve (12) Months, as it shall specify in such notice and the provisions of Clause 5.2(b) shall apply to the extension period. Such extension shall only become effective if, prior to the original Long Stop Date of Full Commercial Operation, 3-C Bulgaria has provided to the Purchaser an extension to and increase of the Construction Performance Guarantee, duly executed by The AES Corporation, in respect of the additional Daily

Liquidated Amounts that may fall due in respect of the Second Unit during the period of the extension.

(g) Capacity Payments and Energy Payments foregone shall be determined in accordance with Clause 1.2(o).

6.6 **Independent Engineer**: For the purposes of this Agreement, the Independent Engineer shall be the independent engineering consultant appointed by the Financing Parties. If no such appointment has been made by the Construction Start Date or if the independent engineering consultant appointed by the Financing Parties declines or if the Financing Parties do not allow him to perform any of the functions allocated under this Agreement to the Independent Engineer, the Independent Engineer shall be such independent engineering consultant as is appointed by 3-C Bulgaria with the approval of the Purchaser and 3-C Bulgaria undertakes to take prompt action to procure the appointment of the Independent Engineer in such circumstances.

7. OPERATIONS AND MAINTENANCE

7.1 **Operating Standards**: 3-C Bulgaria shall at all times during the Term perform or cause to be performed the operation and maintenance of the Complex in accordance with:

(a) the Dispatch Instructions;

(b) Prudent Operating Practices;

(c) the terms and conditions of this Agreement; and

(d) such Legal Requirements as may be applicable to the Complex.

7.2 **Safety and Technical Guidelines**: The Parties shall organise a coordinating committee (the **"Co-ordinating Committee"**) which shall consist of four (4) members, two (2) of whom shall be selected by the Purchaser and two (2) of whom shall be selected by 3-C Bulgaria. The Co-ordinating Committee shall meet from time to time to exchange information and discuss safety and technical guidelines and procedures for the operation of the Complex provided, however, that nothing contained in this Clause 7.2 shall in any way limit or otherwise affect the rights, obligations or ability of 3-C Bulgaria at all times to operate and manage the Project in accordance with the requirements of Clause 7.1.

7.3 **Revision to Contracted Capacity**: 3-C Bulgaria shall be entitled at any time and from time to time to require a de-rating of a Unit with a consequent reduction in that Unit's Contracted Capacity for the remainder of the Term and such de-rating shall become effective upon:

(a) receipt by the Purchaser of a notice under Clause 13.9 in which 3-C Bulgaria informs the Purchaser of its decision to de-rate under Clause 13.9(b);

(b) receipt by 3-C Bulgaria of a notice from the Purchaser confirming its acceptance of a de-rating proposed by 3-C Bulgaria under Clause 2.5(c); and

(c) in any other case, receipt by the Purchaser of notification of such de-rating accompanied by the payment from 3-C Bulgaria of an amount calculated on the basis of one hundred Euros (€ 100) per MW of de-rating per remaining Day of the Term up to a maximum of three (3) Years provided that to the extent such reduction is in respect of Capacity which would otherwise continue to be Available, 3-C Bulgaria shall provide three (3) Months' advance notice of such de-rating.

Except as provided for in this Clause 7.3, the Purchaser shall not be entitled to any remedy which might otherwise arise out of such de-rating, whether under this Agreement or otherwise. Following notification of a proposed de-rating, the Parties shall, if required by any Party, negotiate in good faith any amendments to this Agreement which are required as a consequence of such de-rating including in respect of Ancillary Services and/or System Charges.

7.4 **Tests during normal operation**: All testing of performance of the Complex following the Date of Commercial Operation shall be completed in accordance with Paragraphs 5 and 6 of Appendix F and any additional procedures agreed by the Co-ordinating Committee. Payments due from the Purchaser to 3-C Bulgaria in respect of periods of testing are as described in Paragraphs 5 and 6 of Appendix F.

7.5 **Outages for Maintenance and Repair**:

(a) (i) In order to undertake necessary or agreed inspection, overhaul, maintenance and repair of a Unit and to allow for its operation in accordance with Clause 7.1, 3-C Bulgaria shall be entitled to shut down the Unit (a **"Scheduled Outage"**), for periods of downtime scheduled in accordance with Paragraph 3 of Appendix G.

(ii) The Scheduled Outage shall only be considered to commence after the disconnection of the relevant Unit from the Grid System. The Start-Up on conclusion of a Scheduled Outage shall only be considered part of the Scheduled Outage to the extent this occurs prior to synchronisation with the Grid System.

(iii) The Availability Test (required according to Paragraph 5.3 of Appendix F) on conclusion of a Scheduled Outage shall not be considered part of the Scheduled Outage.

(b) (i) In addition to Scheduled Outages, at any time during the Calendar Year, 3-C Bulgaria may (upon not less than twenty-four (24) hours' prior notice in respect of a Maintenance Outage falling on a Business Day and forty eight (48) hours' prior notice in all other cases) apply to the Purchaser to Shut-Down a Unit for the period of time specified in the application (a **"Maintenance Outage"**). Such notice shall indicate the proposed start and finish dates of the Maintenance Outage and its

expected effect on the Availability of the relevant Unit. Any Start-Up on conclusion of a Maintenance Outage shall only be considered part of the Maintenance Outage to the extent this occurs prior to synchronisation of the Unit with the Grid System. Any Availability Test (called for according to Paragraph 6.1 of Appendix F) on conclusion of a Maintenance Outage shall not be considered part of such Maintenance Outage.

(ii) The Purchaser may, in its discretion but without being Discriminatory, grant such application and shall confirm its decision promptly in writing. The Purchaser may also request in writing changes to the proposed Maintenance Outage schedule and 3-C Bulgaria shall use its reasonable efforts to comply with such request provided (1) it can do this without breaching its obligations under Clause 7.1 and (2) any additional costs and expenses incurred by 3-C Bulgaria as a result of complying with such request are reimbursed by the Purchaser.

(iii) 3-C Bulgaria shall promptly notify the Purchaser of any change in the Maintenance Outage schedule and/or any change in the Availability of the Unit during the period of the Maintenance Outage.

(iv) The System Operator may (in its sole discretion) permit a Non-Scheduled Outage of a Unit to be treated as a Maintenance Outage provided this does not reduce the capacity reserve required for the Grid System.

(v) During a Maintenance Outage, the Minimum Monthly Quantity shall be reduced in proportion to the reduction in Availability of the Unit as a result of such Maintenance Outage (apportioning on a MWh basis by reference to the planned Availability of the Complex for the relevant Month).

7.6 **Forced Outages**: from time to time, 3-C Bulgaria may need to shut down the operations of a Unit because of an interruption to the Availability of the Unit which is not the result of:

(a) a Dispatch Instruction or any request by the Purchaser or the System Operator in accordance with this Agreement;

(b) a Scheduled Outage or a Maintenance Outage;

(c) an Unusual Event;

(d) a Purchaser Event of Default;

(e) a failure by the Purchaser to perform any of its obligations under this Agreement which failure entitles 3-C Bulgaria, in accordance with this Agreement, to so Shut-Down;

(f) a Shut-Down which is expressly permitted under the terms of this Agreement;

(a "**Forced Outage**"). A Start-Up on conclusion of a Forced Outage shall only be considered part of the Forced Outage to the extent this occurs prior to synchronisation of the Unit with the Grid System. Any Availability Test (called for according to Paragraph 6.1 of Appendix F) on conclusion of a Forced Outage shall not be considered part of the Forced Outage. Upon the occurrence of a Forced Outage, 3-C Bulgaria shall:

(i) immediately notify the Purchaser regarding the scope of such Forced Outage;

(ii) give the Purchaser its reasonable estimate of the probable duration of such Forced Outage; and

(iii) adjust the Declared Net Availability Plans submitted or to be submitted in accordance with Paragraphs 4 and 5 of Appendix G and any additional procedures agreed by the Co-ordinating Committee.

During a Forced Outage, the Minimum Monthly Quantity shall be reduced in proportion to the reduction in Availability of the Unit as a result of such Forced Outage (apportioning on a MWh basis by reference to the planned Availability of the Complex for the relevant Month).

7.7 **Operational Records**: 3-C Bulgaria shall at all times maintain detailed operation and maintenance records in accordance with Appendix G.

7.8 **Environmental Impact**:

(a) 3-C Bulgaria shall ensure the Complex is engineered and constructed to comply with all Environmental Requirements applicable to it. F_{FCm} in Paragraph 1 of Appendix A is based on the projected expenditure required to ensure compliance with the Environmental Requirements.

(b) For the avoidance of doubt, 3-C Bulgaria shall also be in compliance with all European Union emissions standards at the date of this Agreement in so far as they would apply to the Maritza East region if Bulgaria was a full member of the European Union or voluntarily adhered to such standards provided that 3-C Bulgaria shall not be responsible for nor shall it have any liability under this Agreement in respect of failure of the Maritza East region to comply with ambient air quality standards to the extent this occurs due to emissions from sources other than the Complex in the same airshed as the Complex.

7.9 **Emergency**: 3-C Bulgaria shall, during an Emergency:

(a) as directed by the Purchaser, supply such Net Electrical Energy Output as each Unit is able to generate with its Contracted Capacity and the Purchaser is able to receive in accordance with the provisions of this Agreement;

(b) as directed by the Purchaser, make all reasonable efforts to reschedule any Scheduled Outage or Maintenance Outage during such time or, if such

Scheduled Outage or Maintenance Outage has begun, expedite the completion of the relevant maintenance work and restore Availability as soon as possible; and

(c) as directed by the Purchaser or as 3-C Bulgaria may feel necessary after consultation with the Purchaser, Shut-Down either or both Units in order to prevent any material damage to the Complex or the Grid System;

provided that:

(i) all actions of 3-C Bulgaria during an Emergency shall conform to the requirements of Clause 7.1; and

(ii) all actions of the Purchaser under Clause 7.9(a) and/or (b) and/or (c) shall be such as to enable 3-C Bulgaria to comply with the requirements of Clause 7.1.

Any costs and expenses incurred by 3-C Bulgaria under this Clause 7.9 (other than costs and expenses in respect of an Emergency to the extent this occurs at the Complex and is not a result of an event occurring in the Grid System) which would not have been incurred by 3-C Bulgaria but for the Emergency shall be paid by the Purchaser to 3-C Bulgaria and may be included in any Invoice.

7.10 **Effective Date of Clause:** The provisions of this Clause 7 shall only come into effect on the Date of Commercial Operations.

8. METERING

8.1 **Commercial Metering System**: The Purchaser shall procure, construct, own and maintain the Commercial Metering System. 3-C Bulgaria shall procure, construct, own and maintain the Back-Up Metering System and the Gross Metering System at the same location as the Commercial Metering System. The Commercial Metering System and the Gross Metering System shall be installed as provided in Appendix E and operated, maintained and tested as provided in Appendix K. The Back-Up Metering System shall be installed, operated, maintained and tested as provided in Appendix K.

8.2 **Records**: With effect from the Commissioning Start Date, 3-C Bulgaria shall at all times keep accurate and detailed records of the metering of each Unit and such records shall be available for review and copying by the Purchaser during normal business hours from time to time and upon request.

8.3 **Reading of Meters**:

(a) The Commercial Metering System shall be read twice in each Month, at 24:00 (midnight) on the last Day of each Invoicing Period by 3-C Bulgaria in the presence of a representative of the Purchaser for the purpose of determining the amount of the Net Electrical Energy Output delivered to the Purchaser since the previous reading and the times at which that output was delivered.

(b) If the Purchaser's representative shall fail to attend such reading, 3-C Bulgaria shall be entitled to proceed with the reading and shall provide to the Purchaser copies of all data collected and a photographic record of the meter readings.

(c) 3-C Bulgaria shall also have the right to take daily readings of the Commercial Metering System without a representative of the Purchaser being present.

9. SUPPLY OF FUEL

9.1 **Supply of Fuel**: Throughout the period from the Commissioning Start Date until termination of this Agreement, 3-C Bulgaria shall at all times and at its cost and expense cause Fuel to be delivered to the Site as necessary for the operation of the Complex in accordance with the provisions of this Agreement.

9.2 **Security Stock**: 3-C Bulgaria shall at all times, following the Date of Commercial Operation, maintain (at the Site and/or at such other place or places as 3-C Bulgaria and the Purchaser may agree) a stock of Fuel (the **"Security Stock"**). If, in order to comply with a Dispatch Instruction or to manage an interruption in the supply of Fuel, 3-C Bulgaria has to utilise any part of the Security Stock, it shall replenish the Security Stock as soon as reasonably practicable and in compliance with Legal Requirements. 3-C Bulgaria shall notify the Purchaser if for any reason the Security Stock falls below three (3) Days' operation at Full Load. 3-C Bulgaria shall not incur any liability to the Purchaser as a result of the utilisation of the Security Stock other than pursuant to Clause 12.

10. PAYMENT

10.1 **Billing**:

(a) From and after the Commissioning Start Date, 3-C Bulgaria shall deliver an invoice (**"Invoice"**) to the Purchaser twice a Month, the first Invoice being issued on or after the sixteenth (16th) Day of each Month in respect of the first fifteen (15) Days of that Month and the second Invoice being issued after the end of the Month in respect of the remainder of that Month (each an **"Invoicing Period"**).

(b) Each Invoice shall be in respect of:

(i) the Capacity Payment (denominated in Euros) for the relevant Invoicing Period;

(ii) the Energy Payment (denominated in Lev) for the relevant Invoicing Period;

(iii) payments in respect of any Ancillary Services provided by 3-C Bulgaria during the relevant Invoicing Period determined in accordance with Paragraph 3 of Appendix A (denominated in Lev);

(iv) any other amounts falling due for payment by the Purchaser to 3-C Bulgaria under this Agreement during the relevant Invoicing Period (in the currency specified in the applicable Clause, failing which, in Euros) including any Reimbursements; and

(v) any Value Added Tax due on any of the payments referred to in Clauses 10.1(b)(i) to (iv) (denominated in Lev), to be noted on a separate line in respect of the amounts due in each Invoice (and for this purpose amounts determined in Euros shall be converted to Lev at the rate which will enable 3-C Bulgaria to comply with applicable Legal Requirements in respect of Value Added Tax);

and shall specify, as required:

(1) the calculation of Available Capacity for each Availability Period in the Invoicing Period;

(2) the calculation of F_{CR} (in Appendix A, Paragraph 1) and F_{FCm} (in Appendix A, Paragraph 1);

(3) the calculation of the Capacity Payment for the Invoicing Period;

(4) the identity number of the meter used for determining Actual Available Capacity for each Availability Period during the Invoicing Period;

(5) the identification of the Delivery Point, the identity number of the electrical meter used in measuring the Net Electrical Energy Output, the measurement units, the first and the last meter reading for the purposes of the relevant Invoicing Period;

(6) the total quantity of Net Electrical Energy Output delivered for sale to the Purchaser during the Invoicing Period (determined in accordance with Clause 8.3);

(7) the calculation of each of EP_F, EP_V, EP_W, EP_L and EP_O (referred to in Appendix A, Paragraph 2);

(8) the calculation of payments for Ancillary Services and Reimbursements; and

(9) the calculation of any other payments required to be made under this Agreement for the Invoicing Period.

(c) Any amounts due under this Agreement from 3-C Bulgaria or 3-C Parent to the Purchaser, including System Charges, shall be separately invoiced by the Purchaser, accompanied by an explanation as to the calculation of the relevant amount with supporting documentation as reasonably required by 3-C Bulgaria. Such amounts shall be invoiced not later than five (5) Business Days after the

end of the Month during which the relevant amount was incurred for payment within five (5) Business Days.

10.2 **Payments**

(a) Subject to Clause 10.2(b), the Purchaser shall remit payment of the full amount of each Invoice in Euros (in respect of invoiced amounts denominated in Euros) and Lev (in respect of invoiced amounts denominated in Lev) within five (5) Business Days after receipt of the Invoice (the "**Due Date**"). In the event that any amount of an Invoice paid to 3-C Bulgaria is disputed by the Purchaser, the provisions of Clause 10.5 shall apply. Such payments shall be made to 3-C Bulgaria's Euro/Lev bank accounts (as notified by 3-C Bulgaria to the Purchaser from time to time) in same-Day value funds.

(b) All amounts denominated in any Invoice in Euros shall be paid in Euros unless it is unlawful under any Legal Requirements for the Purchaser to make payment in Euros in which case, and for so long as it remains unlawful, payment shall be made in Lev on the Day when payment is due. Where it is mandatory for payments denominated in an Invoice in Euros to be made in Lev, the amount of Lev required to be paid in respect of amounts denominated in the Invoice in Euros shall be such amount of Lev as will, following exchange of such payment into Euros on the date of payment using the exchange rate for purchase of Euros with Lev published by the National Bank of Bulgaria on that date and after deduction of any costs and expenses of effecting such exchange, be equal to the value of Euros shown in the Invoice. In the event that 3-C Bulgaria is unable, through no fault of its own, to effect prompt exchange of such Lev payment into Euros and the result of such delay is that following exchange the amount of Euros received by 3-C Bulgaria is:

(i) less than the amount denominated in the relevant Invoice in Euros, the Purchaser will promptly reimburse 3-C Bulgaria in respect of such shortfall;

(ii) more than the amount denominated in the relevant Invoice in Euros, then 3-C Bulgaria will promptly pay the difference to the Purchaser.

(c) Each Party will pay its own bank charges other than in respect of exchange costs as mentioned in Clause 10.2(b) above.

(d) The Purchaser represents to 3-C Bulgaria that it is lawful on the date of this Agreement for it to make payments in Euros to bank accounts in Bulgaria without any Governmental Approval. In the event that it becomes unlawful for the Purchaser to make payment in Euros under Legal requirements without a Governmental Approval, the Purchaser shall use its best efforts and 3-C Bulgaria shall use its reasonable efforts to obtain such relevant Governmental Approval.

10.3 **Free and Clear**: All sums payable under this Agreement shall, except to the extent (if any) required by any Legal Requirement or specifically permitted under this

Agreement, be paid free from any restrictions or conditions and without deduction, withholding, set-off or counterclaim in respect of any Tax or otherwise.

10.4 **Interest**: Late payment by any Party of any amounts due to another Party under this Agreement shall bear Interest from the Day on which such payment becomes overdue until the Day that such payment is actually received.

10.5 **Dispute of Amounts Owed:**

(a) If the Purchaser disputes any amount included in an Invoice (a "**3-C Invoice Dispute**"), the Purchaser shall:

(i) pay the full amount of the Invoice by the Due Date; and

(ii) at the time of such payment notify 3-C Bulgaria of the 3-C Invoice Dispute.

If the Parties are unable to resolve the 3-C Invoice Dispute within five (5) Business Days after the notification referred to in (ii) above, the 3-C Invoice Dispute shall thereafter be submitted for resolution in accordance with the provisions of Clause 18. If the 3-C Invoice Dispute, in whole or part, is determined in favour of the Purchaser, then 3-C Bulgaria shall return the disputed payment to the Purchaser in the currency in which it was originally received to the extent of such determination within five (5) Business Days of the resolution of the 3-C Invoice Dispute. Any sum repaid to the Purchaser following the resolution of a 3-C Invoice Dispute shall bear Interest from the Day such sum was originally received by 3-C Bulgaria until the Day such sum is returned to the Purchaser.

(b) If 3-C Bulgaria or 3-C Parent disputes any amount included in an invoice issued by the Purchaser in accordance with this Agreement (a "**Purchaser Invoice Dispute**"), 3-C Bulgaria or 3-C Parent (as the case may be) shall:

(i) pay the full amount of such invoice by the due date therefor (according to Clause 10.1(c)); and

(ii) at the time of such payment notify the Purchaser of the Purchaser Invoice Dispute.

If the Parties are unable to resolve the Purchaser Invoice Dispute within five (5) Business Days after the notification referred to in (ii) above, the Purchaser Invoice Dispute shall thereafter be submitted for resolution in accordance with the provisions of Clause 18. If the Purchaser Invoice Dispute, in whole or part, is determined in favour of 3-C Bulgaria or 3-C Parent (as the case may be), then the Purchaser shall return the disputed payment to 3-C Bulgaria or 3-C Parent (as the case may be), in the currency in which it was originally paid, to the extent of such determination within five (5) Business Days of the resolution of the Purchaser Invoice Dispute. Any sum repaid to 3-C Bulgaria or 3-C Parent (as the case may be) following the resolution of a Purchaser Invoice

Dispute shall bear Interest from the Day such sum was originally received by the Purchaser until the Day such sum is returned to 3-C Bulgaria or 3-C Parent (as the case may be).

10.6 **Taxes:** 3-C Bulgaria shall pay all Taxes which are imposed on it in connection with the Project. For the avoidance of doubt the tariff specified in Appendix A is based on those Taxes and Tax assumptions specified in Appendix M and where any such Tax is stated to come into effect subsequent to the date of this Agreement, such coming into effect shall not constitute a Change in Law except to the extent that such Tax comes into effect on a different date or for a different amount from that stated in Appendix M.

10.7 **Protection of the Initial Investment**

(a) In the event that a Party believes that a Change in Law shall have occurred since the Reference Date that has or will result in Costs (as defined in Clause 10.7(b)) or Savings (as defined in Clause 10.7(c)), such Party may at any time and from time to time following the Effective Date but not later than six (6) Months after the later of:

(i) the Effective Date;

(ii) the date on which the relevant Change in Law occurs;

(iii) the date on which the relevant Change in Law is first published in the State Gazette or similar official publication available to the public; and

(iv) the date on which the net amount of Costs or Savings (Costs being offset against Savings), when aggregated with the net amount of other Costs or Savings (whether arising in respect of the same or an unrelated Change in Law) occurring during the preceding twelve (12) Months, exceeds the Threshold;

deliver to the other Parties a notice (an **"Adjustment Notice"**) identifying such Change in Law and the net amount of Costs or Savings that have resulted from such Change in Law, subject in any event to an obligation on 3-C Bulgaria to minimise such Costs and to maximise such Savings in accordance with Prudent Operating Practices.

(b) **"Costs"** shall mean any loss of or reduction in revenues suffered by 3-C Bulgaria or any increased or additional costs or expenses that are incurred or borne by 3-C Bulgaria (to the extent not mitigated by insurance) in carrying on its business in accordance with this Agreement including:

(i) (1) any capital expenditure relating to the Project, (2) any financing costs or expenses relating to the Project, (3) any leasing costs or expenses relating to the Project not already included in (1) or (2);

(ii) costs and expenses of maintaining insurance required under Clause 11 and/or the Project Agreements;

(iii) the costs and expenses of operation and maintenance of the Complex;

(iv) any Tax imposed on or payable by 3-C Bulgaria;

(v) any costs or expenses incurred by 3-C Bulgaria as a result of not receiving amounts under this Agreement when due; and

(vi) all of 3-C Bulgaria's and its Affiliates' costs and expenses of performance of their respective obligations under the Project Agreements.

(c) **"Savings"** shall mean any increased or additional revenues received by 3-C Bulgaria or any reduction or cessation of costs or expenses incurred or borne by 3-C Bulgaria in carrying on its business in accordance with this Agreement including:

(i) (1) any capital expenditure relating to the Project, (2) any financing costs or expenses relating to the Project, (3) any leasing costs or expenses relating to the Project not already included in (1) or (2);

(ii) costs or expenses of maintaining insurance required under Clause 11 and/or the Project Agreements;

(iii) the costs or expenses of operation and maintenance of the Complex;

(iv) any Tax imposed on or payable by 3-C Bulgaria;

(v) any costs or expenses not incurred by 3-C Bulgaria as a result of receiving amounts under this Agreement when due; and

(vi) all of 3-C Bulgaria's and its Affiliates' costs and expenses of performance of their respective obligations under the Project Agreements.

(d) Within twenty-one (21) Days following the receipt of any Adjustment Notice, the Parties shall meet to discuss the subject matter of such Adjustment Notice. If within fourteen (14) Days after the commencement of such discussions, the contents of the Adjustment Notice have not been agreed by the Parties, any Party may treat the matter as a Dispute to be resolved in accordance with Clause 18 hereof.

(e) Costs or Savings will only be governed by the provisions of this Clause 10.7 if the net amount of such Costs or Savings (Costs being offset against Savings), when aggregated with the net amount of any other Costs or Savings (whether arising in respect of the same or an unrelated Change in Law) occurring during the preceding period of twelve (12) Months, exceed the Threshold (in which case all of such amounts (including the amount of the Threshold) shall be taken into account for the purposes of this Clause).

(f) To the extent that a claim for Costs or Savings resulting from the occurrence of a Change in Law is not disputed or has been resolved in accordance with

Clause 18 hereof, the appropriate components used to determine the Energy Payment and/or of the Capacity Payment and/or payments for Ancillary Services and/or the Reimbursements and/or the System Charges shall be adjusted in accordance with Clauses 10.7(g) and 10.7(h) provided that so long as any element of the proposed adjustment requires the approval of the Regulator, the implementation of such adjustment, to the extent of that element, shall be conditional upon the Parties first receiving the approval of the Regulator. Each Party agrees at the request of any other Party to co-operate to the fullest extent in submitting and prosecuting any request for approval to the Regulator including pursuing all reasonably available procedures for appealing against and challenging the grounds for any negative decision in respect thereof by the Regulator.

(g) The adjustment of the components used to determine Energy Payments and/or Capacity Payments and/or the payments for Ancillary Services and/or the Reimbursements and/or the System Charges:

(i) shall be such as shall ensure 3-C Bulgaria has the same after-Tax profit available for distribution as dividends throughout the remainder of the Term (by reference to the Financial Model) as if such Costs had not been incurred or Savings had not been realised;

(ii) shall be retroactive to the date upon which the relevant Costs or Savings first occurred (with a reconciliation payment being made between 3-C Bulgaria and the Purchaser);

(iii) where compliance with the Change in Law requires 3-C Bulgaria to incur material capital expenditure, shall be such as to enable 3-C Bulgaria to raise additional third party finance for this purpose taking into account the duration of the remainder of the Term, the availability of finance for such purposes on reasonable commercially available terms and the terms of the Financing Agreements; and

(iv) shall reflect any requirements of the Regulator following an application for approval (and, if required, appeal) referred to in Clause 10.7(f).

(h) To the extent practicable the Parties shall work together and co-operate to effect the adjustment of the appropriate components used to determine Energy Payments and/or Capacity Payments and/or payments for Ancillary Services and/or the Reimbursements and/or the System Charges as required under this Clause 10.7 in a fair and reasonable manner. If, within thirty (30) Days following the resolution of or agreement upon any claim for Costs or Savings, the Parties are unable to agree on the consequential adjustment of the components used to determine Energy Payments and/or Capacity Payments and/or payments for Ancillary Services and/or the Reimbursements and/or the System Charges, such adjustment shall be regarded as a Dispute to be resolved in accordance with Clause 18.

(i) If an application has been made to the Regulator in accordance with Clause 10.7(f) or Clause 22.16(d) and either the Regulator has:

(i) failed to approve such application in its entirety within ninety (90) Days of the original submission; or

(ii) has withheld its approval to the proposed adjustment or rejected the application;

then, notwithstanding that any appeal may be ongoing, this shall be deemed to be a Discriminatory Lapse of Consent adversely affecting the ability of 3-C Bulgaria to enjoy its rights under this Agreement.

10.8 Payment Security:

(a) Prior to the Effective Date 3-C Bulgaria and the Purchaser shall negotiate and enter into the Assignment of Receivables and the Purchaser shall procure that its Customer (or Customers, should the Financing Parties require more than one) shall enter into or otherwise take all actions as are necessary to implement, complete and perfect the Assignment of Receivables.

(b) The Assignment of Receivables shall provide for payment by the Purchaser's Customer(s) of receivables which are then or in the future due to the Purchaser from such Customer(s) directly into a bank account nominated by 3-C Bulgaria if, at any time following the Effective Date, payment is due hereunder from the Purchaser to 3-C Bulgaria but has remained unpaid for five (5) Business Days following receipt by the Purchaser of a written notice sent by 3-C Bulgaria to the Purchaser after the Due Date (a "**Notifiable Event**") and notwithstanding that such Invoice may be the subject of a 3-C Invoice Dispute.

(c) Immediately following the occurrence of a Notifiable Event, 3-C Bulgaria may in its sole discretion notify the Customer(s) of the Notifiable Event and take such other action at the cost and expense of the Purchaser as shall be necessary or desirable in the opinion of 3-C Bulgaria or the Financing Parties to perfect or enforce the terms of the Assignment of Receivables.

(d) If, notwithstanding the provisions of sub-Clauses (a) to (c) above, any Invoice remains fully or partially overdue and unpaid for more than twenty (20) Business Days and notwithstanding that it may be the subject of a 3-C Invoice Dispute then:

(i) without prejudice to any other right or remedy available to 3-C Bulgaria; and

(ii) subject to this being in compliance with Legal Requirements at the applicable time;

3-C Bulgaria shall have the right (but not the obligation) to sell electricity to third parties, either inside Bulgaria or outside Bulgaria and either directly or through one or more intermediaries (including the Purchaser), and to retain the net proceeds of such sales to the extent required to settle the overdue amount and to complete performance of all contracts for such sales notwithstanding the

payment by the Purchaser of overdue amounts under such Invoice provided always that:

(1) any such sales contract shall be for a duration that is not materially longer than reasonably necessary to enable the outstanding amount to be settled and 3-C Bulgaria shall pay to the Purchaser any amounts received by it in excess of the amount required to settle the outstanding Invoice;

(2) the Units shall be deemed fully Available and 3-C Bulgaria shall be entitled to receive Capacity Payments calculated on the basis that Available Capacity equals the Available Contracted Capacity, notwithstanding the inability of 3-C Bulgaria to supply Net Electrical Energy Output to the Purchaser due to 3-C Bulgaria's performance of such sales contracts, and

(3) the Purchaser shall, at 3-C Bulgaria's request provide all assistance reasonably required by 3-C Bulgaria to enable it to enter into and perform such sales contracts, either directly or through the Purchaser or other intermediaries, such assistance to be on the same basis as that which applies following a termination, as described in Clause 15.9 and in this connection the Purchaser shall:

(A) waive any transmission charges;

(B) bear its own costs and expenses; and

(C) bear the reasonable costs and expenses of 3-C Bulgaria which are properly incurred by 3-C Bulgaria under this Clause 10.8(d).

10.9 **Regulation**

(a) The Capacity Payment, the Energy Payment, the payments for Ancillary Services, the System Charges and the Reimbursements, as determined in Appendix A, shall be subject to all applicable Legal Requirements including any order providing for maximum prices applicable to independent power producers in Bulgaria, provided the provisions of this Clause 10.9 shall not prejudice 3-C Bulgaria's rights under this Agreement resulting from the application of Clause 10.7(i).

(b) In the event that the application of the Legal Requirements in the manner referred to in Clause 10.9(a) shall have a material adverse effect on the rights and obligations of 3-C Bulgaria under this Agreement (and for this purpose it shall be considered material if the adverse financial impact shall exceed the Threshold during any twelve (12) month period), then in addition to any other provision of this Agreement, and for so long as 3-C Bulgaria shall remain the operator of the Complex, 3-C Bulgaria shall use its reasonable efforts to reduce the extent of such adverse impact by finding alternative customers for the Capacity and the Net Electrical Energy Output of the Complex (for which purpose the Purchaser shall provide all reasonable assistance including access

to the Grid System, dispatch of Third Party Capacity and transmission of such Net Electrical Energy Output at tariffs which are not Discriminatory, to the extent this is permitted under the Legal Requirements). The de-rating penalties referred to in Clause 7.3(c) shall not apply to any such Capacity sold to third parties.

11. INSURANCE

11.1 **General:** 3-C Bulgaria, at its sole cost and expense, shall obtain and maintain or cause to be obtained and maintained insurance policies from financially sound and reputable insurers that generally contain provisions (including those relating to deductibles, excesses, limits of cover and exclusions) which are reasonably standard in the insurance market with respect to power generating facilities of similar size, technology and location to the Complex. These policies shall provide the types of insurance coverage and terms described in Clause 11.2, subject to their availability on commercially reasonable terms (including price) in the international insurance market at the time when such insurance is required to be obtained. Nothing shall prevent 3-C Bulgaria, at its sole cost and expense, from procuring insurance coverage in addition to the insurance coverage specified in Clause 11.2.

11.2 **Coverage:**

(a) Construction All Risks Insurance:

(i) Coverage: This insurance policy shall cover physical loss of or damage to both the permanent and temporary works of the Complex while under construction by 3-C Bulgaria, its contractors and/or their subcontractors. The scope of coverage shall include "All Risks", subject to standard exclusions and sub-limits, and "Faulty Design", to the extent available.

(ii) Amount Insured: Such policy shall cover an amount equal to the maximum foreseeable physical loss of or damage to the Complex subject to appropriate peril sub-limits.

(iii) Period: With respect to the construction and Commissioning of the Complex, the period of the policy shall extend from the Effective Date to the Date of Full Commercial Operation (actual not deemed). With respect to work being carried out by any EPC Contractor (or its subcontractors) on the Complex after Commissioning pursuant to its obligations under any EPC Agreement, the period shall extend in accordance with such EPC Agreement.

(b) Marine and Air Cargo Insurance:

(i) Coverage: This insurance policy shall cover physical loss of or damage to the materials, equipment and supplies for incorporation in or consumption by the Complex occurring during transportation to the Site over land or sea or in the air.

(ii) Amount Insured: Such policy shall be in an amount equivalent to one hundred and ten percent (110%) of the Cost, Insurance and Freight (CIF) replacement value of the materials, equipment and supplies, subject to appropriate pre-conveyance limits.

(iii) Period: The period of such policy shall run from the date of first shipment until the date of the arrival at the Site of the last shipment.

(c) All Risks Property/Machinery Insurance:

(i) Coverage: Such insurance shall cover physical loss of or damage to the Complex during normal operation.

(ii) Amount Insured: Such policy shall cover not less than the maximum foreseeable physical loss of or damage to the Complex, subject to appropriate peril limits.

(iii) Period: The period of such policy shall run from the Date of Full Commercial Operation (actual not deemed) on an annual basis until the expiry of the Term.

(d) Comprehensive General Liability Insurance:

(i) Coverage: This insurance policy shall include legal liability for damage to property of or personal injury to third parties arising out of the construction of the Complex and ownership, operation and maintenance of the Complex.

(ii) Amount insured: Such policy shall cover a minimum of five million Euros (€ 5,000,000) in total per occurrence.

(iii) Period: The period of such policy shall extend from the Effective Date to the expiry of the Term.

(e) Worker's Compensation Insurance:

(i) Coverage: This insurance policy shall cover worker's compensation as required by relevant Legal Requirements.

(ii) Amount insured: Such policy shall cover an amount required under relevant Legal Requirements.

(iii) Period: The period of such policy shall extend from the Effective Date on an annual basis until the expiry of the Term.

(f) Delayed Commercial Operations following Construction All Risks delay:

(i) Coverage: Against reduction in Capacity Payments and liabilities of 3-C Bulgaria and its Affiliates' in respect of their obligations to third parties under Project Agreements arising during the indemnity period, to the extent commercial operations of the Complex are delayed as a direct

result of loss or damage insured under the Construction All Risks Policy specified in Clause 11.2(a). The policy will include supplier/customer extensions to cover the consequences of delays experienced by 3-C Bulgaria resulting from similar loss or damage suffered by any party to a Project Agreement.

(ii) Amount insured: An amount not less than eighteen (18) Months' debt service under the Financing Agreements and any mandatory payments due under Project Agreements.

(iii) Period: From the Effective Date until the Date of Full Commercial Operation (actual not deemed).

(g) Delayed Commercial Operations following Marine and Air Cargo delay:

(i) Coverage: Against reduction in Capacity Payments and liabilities of 3-C Bulgaria and its Affiliates in respect of their obligations to third parties under Project Agreements arising during the indemnity period, to the extent commercial operations of the Complex are delayed as a direct result of loss or damage insured under the Marine and Air Cargo Policy specified in Clause 11.2(b). The policy will include supplier/customer extensions to cover the consequences of delays experienced by 3-C Bulgaria resulting from similar loss or damage suffered by any party to a Project Agreement.

(ii) Amount Insured: An amount not less than eighteen (18) Months' debt service under the Financing Agreements and any mandatory payments due under Project Agreements.

(iii) Period: Date of first shipment until the Date of Full Commercial Operation (actual not deemed).

(h) Business Interruption following All Risks Property/Machinery loss:

(i) Coverage: Against reduction in Capacity Payments and liabilities of 3-C Bulgaria and its Affiliates in respect of their obligations to third parties under Project Agreements arising during the indemnity period, to the extent commercial operations of the Complex are interrupted as a direct result of loss or damage insured under the All Risks Property/Machinery Insurance specified in Clause 11.2(c). The policy will include supplier/customer extensions to cover the consequences of delays experienced by 3-C Bulgaria resulting from similar loss or damage suffered by any party to a Project Agreement.

(ii) Amount insured: An amount equal to eighteen (18) Months' debt service under the Financing Agreements plus any mandatory payments due under any Project Agreement.

(iii) Period: From the Date of Full Commercial Operations (actual not deemed) until the expiry of the Term.

11.3 **Increase in Premiums:** In the event of the occurrence of a Purchaser Related Event, 3-C Bulgaria shall be entitled to recover from the Purchaser any increase in the cost of insurance required to be maintained by 3-C Bulgaria under this Agreement to the extent this is attributable to such Purchaser Related Event.

11.4 **Approval of Insurances:** The insurance policies referred to in Clause 11.2 shall be arranged by 3-C Bulgaria with the cooperation of the Purchaser prior to the Effective Date and shall be subject to the approval of the Financing Parties.

11.5 **Copies of Policies to the Purchaser:** On or before the Effective Date 3-C Bulgaria shall provide to the Purchaser copies of certificates of insurance in respect of all insurance policies arranged in accordance with Clause 11.2.

12. INDEMNIFICATION AND LIABILITY

12.1 **Indemnification:**

(a) 3-C Bulgaria hereby agrees to indemnify, defend and hold harmless the Purchaser from and against all loss, damage, expenses and costs incurred by it in respect of any liability to third parties (including Affiliates of the Purchaser which are parties to any Project Agreement and contractors, suppliers, agents, officers, directors or employees of the Purchaser or such Affiliates) for injury to person or property caused by or arising out of:

(i) the negligence or Wilful Misconduct of 3-C Bulgaria, its Affiliates, their contractors, suppliers or agents and/or their respective officers, directors or employees with respect to the construction, Commissioning, ownership, operation or maintenance of the Complex or a breach by 3-C Bulgaria or 3-C Parent of their respective obligations under this Agreement;

(ii) any damage to the Grid System caused by the negligence or Wilful Misconduct of 3-C Bulgaria, its Affiliates, their contractors, suppliers or agents or their respective officers, directors or employees or a breach by 3-C Bulgaria or 3-C Parent of their respective obligations under this Agreement; or

(iii) a visit by 3-C Bulgaria, its Affiliates, their contractors, suppliers or agents or their respective officers, directors or employees to the Interconnection Facilities pursuant to this Agreement.

(b) The Purchaser hereby agrees to indemnify, defend and hold harmless 3-C Bulgaria and 3-C Parent from and against all loss, damage, expenses and costs incurred by them in respect of any liability to third parties (including Affiliates of 3-C Bulgaria or 3-C Parent which are parties to any Project Agreement and contractors, suppliers, agents, officers, directors or employees of 3-C Bulgaria

or 3-C Parent or such Affiliates) for injury to person or property caused by or arising out of:

(i) the negligence or Wilful Misconduct of the Purchaser, its Affiliates, their contractors, suppliers or agents or their respective officers, directors or employees with respect to the construction, commissioning, ownership, operation or maintenance of the Grid System or a breach by the Purchaser of its obligations under this Agreement;

(ii) any damage to the Complex caused by the negligence or Wilful Misconduct of the Purchaser, its Affiliates, their contractors, suppliers or agents or their respective officers, directors or employees or a breach by the Purchaser of its obligations under this Agreement;

(iii) any interruption or surge in the supply of electricity from the Grid System to the Purchaser's customers, save to the extent that any such loss, damage or liability is caused by the negligence of 3-C Bulgaria or its Affiliates, their contractors, suppliers or agents or their respective officers, directors or employees, or by a breach by 3-C Bulgaria or 3-C Parent of their respective obligations under this Agreement; or

(iv) a visit by the Purchaser or its Affiliates, their contractors, suppliers or agents or any of their respective officers, directors or employees to the Complex pursuant to this Agreement.

(c) Without limiting the scope of Clause 12.1(b), the Purchaser hereby agrees to indemnify, defend and hold harmless 3-C Bulgaria and 3-C Parent from and against all loss, damage, liabilities, expenses and costs reasonably incurred by it (including to Affiliates of 3-C Bulgaria or 3-C Parent which are parties to any Project Agreement and contractors, suppliers, agents, officers, directors or employees of 3-C Bulgaria or 3-C Parent or such Affiliates), including the reasonable costs and expenses of investigation, testing, containment, removal, cleanup, abatement, remediation, fines and penalties, scope changes under any EPC Agreement, all costs and expenses of remedying violations and reasonable attorneys' and consultants' fees, expenses and costs, in respect of or arising from:

(i) the environmental condition of the Site as at or prior to the Effective Date (including as a result of Site clearance requested by or on behalf of 3-C Bulgaria or performed by the Purchaser in accordance with the provisions of this Agreement);

(ii) any industrial or other activities occurring at the Site prior to the Effective Date;

(iii) any industrial or other activities of the Purchaser, Affiliates of the Purchaser, their contractors and agents and their respective officers, directors or employees occurring outside of the Site which impact the Site or the Complex at any time;

(iv) any industrial or other activities occurring at the Site at any time after the Transfer Closing;

(v) any breach of a Project Agreement by the Purchaser or any of its Affiliates which are parties to a Project Agreement;

to the extent 3-C Bulgaria and/or 3-C Parent have not otherwise been compensated by remedies available under Legal Requirements within three (3) Months of first seeking such compensation provided that 3-C Bulgaria and/or 3-C Parent, as the case may be, have duly and diligently pursued such compensation during such period and provided that on receipt of such indemnity compensation from the Purchaser, the Purchaser shall be entitled to assume and take over and pursue (at its own cost and expense) such application for compensation and to receive and retain such compensation if paid

(d) Without limiting the scope of Clause 12.1(a), 3-C Bulgaria hereby agrees to indemnify, defend and hold harmless the Purchaser from and against all losses, damages, liabilities, expenses and costs reasonably incurred by it (including to Affiliates of the Purchaser which are parties to any Project Agreement and contractors, suppliers, agents, officers, directors or employees of the Purchaser or such Affiliates), including the reasonable costs and expenses of containment, removal, cleanup, abatement, remediation, fines and penalties, all costs and expenses of remedying violations and reasonable attorneys' and consultants' fees, expenses and costs, in respect of or arising as a result of:

(i) any failure of 3-C Bulgaria, its Affiliates, their contractors and agents and their respective officers, directors or employees during the Term to comply at the Site with all relevant Legal Requirements concerning environmental conditions;

(ii) any breach of a Project Agreement by 3-C Bulgaria, 3-C Parent or any of their Affiliates which are parties to a Project Agreement;

to the extent the Purchaser is not otherwise compensated by remedies available under Legal Requirements within three (3) Months of the Purchaser first seeking such compensation provided that the Purchaser has duly and diligently pursued such compensation during such period and provided that on receipt of such indemnity compensation from 3-C Bulgaria, 3-C Bulgaria shall be entitled to assume and take over and pursue (at its own cost and expense) such application for compensation and to receive and retain such compensation if paid.

(e) Without limiting the scope of Clause 12.1 (b) or (c) or any other rights of 3-C Bulgaria under this Agreement, the Purchaser hereby agrees to indemnify, defend and hold harmless 3-C Bulgaria and 3-C Parent from and against all losses, damages, liability, expenses and costs reasonably incurred (including to Affiliates of 3-C Bulgaria or 3-C Parent which are parties to any Project

Agreement and contractors, suppliers, agents, officers, directors or employees of 3-C Bulgaria or 3-C Parent or such Affiliates) as a result of the discovery on the Site or at the location of the Interconnection Facilities of any fossils, coins, relics or other articles of historical or archaeological interest or explosives (including the reasonable cost and expense of investigation and removal of such articles and amounts payable to any EPC Contractor under any EPC Agreement arising from consequential scope changes under such EPC Agreement due to delays or changes to its programme of work).

(f) In the event that any loss under any of Clauses 12.1(a) to (e) results from any joint or concurrent negligence by the Parties, each Party shall be liable to the others in proportion to its relative degree of fault, as determined by the Parties, failing which by an arbitral tribunal in accordance with Clause 18.

12.2 Notice and Resolution of Claims for Indemnification:

(a) Each Party shall notify the other Parties promptly after it becomes aware of any event or circumstance which might give rise to a claim for indemnification hereunder.

(b) The indemnifying Party shall defend any suit asserting a claim covered by such indemnity and shall pay all costs and expenses (including all necessary attorney's fees and expenses) that may be incurred in the conduct of such defence. The indemnified Parties may, at their own cost and expense, retain separate counsel and participate in the defence of any such suit or action.

(c) The indemnifying Party shall not compromise or settle any claim hereunder without the prior written consent of the indemnified Parties, provided, however, that in the event the indemnified Parties withhold or delay their consent to any such settlement or compromise, then the liability of the indemnifying Party shall be limited to the aggregate of (i) the amount of the proposed compromise or settlement, (ii) the amount of the attorney's fees and expenses outstanding at the time such consent shall have been withheld or delayed and (iii) the amount of any outstanding claim against which indemnification applies and which is not covered by the proposed compromise or settlement (together with all costs and expenses associated with such outstanding claim).

(d) Thereafter, the indemnified Parties withholding or delaying such consent shall hold harmless and reimburse the indemnifying Party, upon demand, for the amount of any additional liability, attorneys' fees and expenses incurred by the indemnifying Party over and above the amount described under Clause 12.2(c) after the time such consent shall have been withheld or delayed.

12.3 Limitation of Liability:

(a) To the maximum extent permitted by the Legal Requirements, each Party hereby agrees that any claim by a Party against another Party that may arise under this Agreement shall be made only in accordance with Clause 18 and that

no Affiliate (that is not a Party) nor any officer, director, agent, contractor, supplier, employee of that other Party or its Affiliates, as the case may be, shall have any liability with respect to any such claim unless it arises in connection with an independent contractual obligation separate from this Agreement. For the purposes of this Clause 12.3(a), the Project Support Letter and the Legal Opinions, once issued, shall be considered as independent contractual obligations separate from this Agreement.

(b) Nothing in this Clause 12 shall oblige a Party to indemnify the other Parties in respect of any liability, damage, loss, cost, expense or claim for which the other Parties or their Affiliates receive indemnification in full (or in part, to the extent of that part) pursuant to any other Project Agreement or have otherwise mitigated their damage, loss, expense or cost (including through receipt of proceeds from a related insurance claim).

(c) For the avoidance of doubt, the provisions of this Clause 12 (including the extent of liabilities of a Party to third parties) shall be subject to the provisions of Clause 22.3.

13. UNUSUAL EVENTS

13.1 **Unusual Events**: An Unusual Event is, as the context shall require:

(a) a Bulgarian Authority Action;

(b) a Bulgarian Incident; or

(c) a Force Majeure Event.

13.2 **Bulgarian Authority Actions**: A **"Bulgarian Authority Action"** shall mean any event or occurrence or combination of events or occurrences of the type listed in sub-Clauses (a) to (d) below and/or the effects thereof:

(a) (i) expropriation, requisition, confiscation, impoundment, seizure, nationalisation or compulsory acquisition by any Bulgarian Authority of the Complex or any assets relating to the Project of either 3-C Bulgaria or its Affiliates, contractors or agents, or any shares or other interests in 3-C Bulgaria or any of its Affiliates, contractors or agents; or

(ii) the cancellation, curtailment or material change of the Project by the Purchaser or any Bulgarian Authority; or

(iii) the repudiation, frustration of or any similar action in relation to any Project Agreement by the Purchaser or any Bulgarian Authority; or

(b) any of the following:

(i) any Change in Law;

(ii) any act of, or failure to act by, any Bulgarian Authority including any Lapse of Consent; or

(iii) the interruption by a Bulgarian Authority in the supply of any utility or service provided to the Project by a Bulgarian Authority;

to the extent it is Discriminatory and adversely affects the ability of a Party to perform its obligations or to enjoy its rights under this Agreement;

(c) the inability of (i) 3-C Bulgaria and/or its Affiliates for the purposes of fulfilling their respective obligations or enjoying their respective rights under any Project Agreement and/or (ii) 3-C Parent in respect of dividends or other distributions due to it from 3-C Bulgaria:

(1) to convert Lev into Euros;

(2) to repatriate or otherwise transfer Euros from Bulgaria to any other jurisdiction to which it had been able to repatriate Euros prior to the relevant event or occurrence; or

(3) to effect or maintain policies of insurance specified in Clause 11.2 due to unavailability of insurance and/or reinsurance in respect of Bulgarian risk on commercially viable terms due to political events occurring in or in relation to Bulgaria; or

(d) non-performance of any obligation of any Person under any Project Agreement as a result of any event or occurrence or combination of events or occurrences of the type listed under sub-Clauses (a) to (c) above and/or the effects thereof.

13.3 **Bulgarian Incidents**: A **"Bulgarian Incident"** shall mean any event or occurrence or combination of events or occurrences of the type listed in sub-Clauses (a) or (b) below and/or the effects thereof which adversely affects the ability of a Party to perform its obligations under this Agreement to the extent this is not a Bulgarian Authority Action:

(a) any of the following:

(i) any strike, work to rule, go slow or other labour disturbance including but not limited to nation-wide, regional or industry-wide events within Bulgaria;

(ii) any Change in Law;

(iii) any act of, or failure to act by, any Bulgarian Authority including any Lapse of Consent;

(iv) the interruption by a Bulgarian Authority in the supply of any utility or service provided to the Project by a Bulgarian Authority;

(v) any act or threat of terrorism or threat from terrorists;

(vi) any riot, public disorder or violent demonstration;

(vii) any insurrection, rebellion, coup, revolt, revolution, uprising, civil commotion or insurgency;

(viii) any kidnapping or sabotage;

(ix) any act of war (whether or not declared), armed conflict, open hostilities, invasion, blockade, embargo or act of a public or foreign enemy;

(x) the closing or reduction in capacity by a Bulgarian Authority of any harbour, port, dock, canal, road, airport or other infrastructure;

(xi) any rationing introduced by a Bulgarian Authority;

(xii) any import or export restrictions by a Bulgarian Authority;

(xiii) any pollution other than Sudden and Accidental Pollution;

(xiv) any nuclear risks including radioactive contamination or ionising radiation;

(xv) any failure by a Bulgarian Authority to complete customs clearance procedures in respect of goods, materials or equipment being imported into Bulgaria by or on behalf of a Party within fourteen (14) Days after receipt by the relevant Bulgarian Authority of all required documentation in proper form submitted in accordance with applicable Legal Requirements;

(xvi) the occurrence of any of the events in respect of which a Party is entitled to indemnification under Clause 12.1(a) to (e);

(xvii) any epidemic, famine, plague, pestilence, outbreak, quarantine or other such calamities; or

(xviii) any of the events or circumstances referred to in Clauses 13.4(a)(iii) or (iv) or, in so far as it applies to Clauses 13.4(a)(iii) or (iv), Clause 13.4(b), to the extent such event or occurrence continues for longer than nine (9) months after being declared as a Force Majeure Event;

(b) non-performance of any obligation of any Person under any Project Agreement as a result of any event or occurrence or combination of events or occurrences of the type listed under sub-Clause (a) above and/or the effects thereof.

13.4 **Force Majeure Events**: A **"Force Majeure Event"** shall mean any event or occurrence or combination of events or occurrences of the type listed in sub-Clauses

(a) or (b) below and/or the effects thereof which adversely affects the ability of a Party to perform its obligations under this Agreement to the extent this is not a Bulgarian Authority Action or a Bulgarian Incident:

(a) any of the following events:

(i) any explosion, implosion, fire, Sudden and Accidental Pollution, the occurrence of pressure waves caused by aircraft or other aerial devices;

(ii) weather conditions such as floods, volcanic activity, meteorites, earthquakes, storms, gales, torrential rain, hail, tornadoes, typhoons, cyclones, hurricanes, lightning, tide (other than normal tides), tidal waves, tsunamis or perils of the sea, blizzards, unexpected ice flows, accumulation of snow or ice, severe drought or desiccation and other natural calamities, extreme weather or environmental conditions or acts of God;

(iii) the breach of any Project Agreement by any Person other than the Party declaring the Force Majeure Event or its Affiliates;

(iv) any other event or occurrence which is beyond the reasonable control of the Party claiming to be affected by it (including the unavailability of Fuel, limestone, cooling or make-up water and/or waste handling, transportation and disposal services for any reason including as a result of any strike, work to rule, go slow or other labour disturbance);

(b) non-performance of any obligation of any Person (other than the Party declaring the Force Majeure Event or its Affiliates) under any Project Agreement as a result of any event or occurrence or combination of events or occurrences of the type listed under sub-Clause (a) above and/or the effects thereof

13.5 **Exclusions from Unusual Events**: Notwithstanding Clauses 13.1 to 13.4, none of the following events or circumstances shall constitute an Unusual Event:

(a) late delivery to a Party of machinery, equipment or spare parts unless such late delivery is itself caused by any Unusual Event;

(b) the failure or inability to make payments under this Agreement except where this is the subject of a Dispute and the paying Party is permitted to withhold such payment under this Agreement;

(c) with respect to the Purchaser only, changes in the demand for or pricing of electricity or Fuel in Bulgaria;

(d) a delay in the performance of any Person contracting with the Party declaring the Unusual Event save as provided in Clauses 13.2(d), 13.3(b) and 13.4(a)(iii) and (iv) and 13.4 (b);

(e) with respect to a Party, a strike, work to rule, go slow or other labour disturbance affecting solely the employees/workforce of that Party and/or its Affiliates and/or their respective agents or contractors (other than contractors which are not Affiliates of the affected Party);

(f) any event or occurrence, other than a Bulgarian Authority Action, to the extent that it could have been prevented, overcome or remedied by the affected Party through the exercise of reasonable diligence and due care, it being understood that:

(i) reasonable diligence and due care shall include the use of Prudent Operating Practices and compliance with Legal Requirements; and

(ii) in the case of an event referred to in Clauses 13.3(a)(xviii), 13.4(a)(iii), 13.4(a)(iv) or 13.4(b), 3-C Bulgaria shall not be entitled to claim unavailability of Fuel, limestone, cooling or make-up water and/or waste handling and disposal services to be a Force Majeure Event to the extent that alternative supplies or services would, having regard to procurement procedures under the Legal Requirements, be available to 3-C Bulgaria on terms (including as to price, security of supply and timing and frequency of delivery) not materially worse than in respect of those supplies or services which are unavailable; or

(g) any event or occurrence resulting from the contravention of any Legal Requirement or any provision of a Project Agreement by the Party affected by such event or occurrence to the extent that Party is not relieved of responsibility for such contravention by the operation of Legal Requirements or the terms of such Project Agreement.

13.6 **Notice of Unusual Event: Procedure**:

(a) An event or occurrence shall not be considered an Unusual Event unless and until the affected Party shall have declared the following to the other Parties in writing (an **"Unusual Event Notice"**), to the extent ascertainable:

(i) the occurrence and nature of such Unusual Event;

(ii) the date and expected duration of such Unusual Event; and

(iii) any action being taken by the affected Party to avoid or minimise the effects thereof.

(b) Any delay in the notification provided for in Clause 13.6(a) shall not affect a Party's right to declare an Unusual Event provided, however, that no Party shall be allowed to claim relief from or exercise any rights or remedies in respect of an Unusual Event under Clauses 13.7 to 13.10 except in relation to periods of time subsequent to the date such notice is actually received by the non-declaring Parties.

(c) Within forty-eight (48) hours following the cessation of an Unusual Event, the Party that invoked such Unusual Event shall submit a written notice to the other Parties which shall specify that a cessation of the Unusual Event has occurred. All of the Party's obligations which were suspended by reason of the Unusual Event shall resume and continue in full force and effect in the shortest time possible following its cessation and in any case within two Business Days after the cessation notice provided for in this Clause 13.6(c) is received by the non-declaring Parties.

(d) Except as provided in Clause 13.9, the Party affected by the Unusual Event:

(i) shall:

(1) use its best efforts to prevent, remove, avoid and mitigate the effects of the Unusual Event, including recourse to alternative acceptable sources of services, equipment, supplies and materials; and

(2) in the case of 3-C Bulgaria, submit and prosecute with all due diligence all available claims under the insurances maintained by it including those under Clause 11.2;

(ii) shall, if the Purchaser is unable to take Capacity and/or Net Electrical Energy Output as a result of the relevant Unusual Event and to the extent this is permitted under the Legal Requirements, use its best efforts to find alternative customers for the Capacity and the Net Electrical Energy Output of the Complex for the duration of the Unusual Event at the best price reasonably obtainable (for which purpose the Purchaser shall provide all reasonable assistance including access to the Grid System, dispatch of Third Party Capacity and transmission of Net Electrical Energy Output at tariffs which are not Discriminatory) provided that 3-C Bulgaria shall not be required by any such alternative sales arrangements to sell Net Electrical Energy Output for less than the variable cost of its generation and for the avoidance of doubt any such sales to third parties during the Unusual Event shall not constitute a de-rating of the Units;

(iii) shall use its best efforts to ensure the prompt resumption of normal performance of this Agreement after the cessation of the Unusual Event; and

(iv) shall provide, when reasonably requested by the other Parties, notices to the other Parties more fully describing the Unusual Event, its cause, the efforts being made to remove, avoid and mitigate its effects and an estimate of the duration of the Unusual Event;

provided, however, that this Clause 13.6(d) shall not require a Party to purchase replacement capacity or replacement electrical energy or settle any strike, labour dispute or work stoppage on terms or conditions that it may feel,

in its sole discretion, are not in its best interests or (in the case of 3-C Bulgaria and/or 3-C Parent only) to incur any material expenditure in the case of a Bulgarian Authority Action.

(d) If a Party disputes the occurrence, validity or duration of an Unusual Event after receiving an Unusual Event Notice, such dispute shall be resolved as provided for in Clause 18.

13.7 Certain Effects of Unusual Events:

(a) Subject to Clause 13.6(b), from and after the date provided in an Unusual Event Notice, a Party shall be excused from performance and shall not be construed to be in default in respect of any obligation hereunder for so long as and to the extent that any delay or failure to perform such obligation shall be due to an Unusual Event.

(b) If an Unusual Event occurs prior to the Date of Commercial Operation (with respect to the First Unit) or the Date of Full Commercial Operation (with respect to the Second Unit), the provisions of Clause 13.7(a) shall not relieve the Purchaser of its obligations under Clause 6.5(a) and/or (b).

13.8 Payments During or Resulting From Unusual Events:

(a) To the extent that an Unusual Event occurs prior to the Date of Commercial Operation (in the case of the First Unit) or the Date of Full Commercial Operation (in the case of the Second Unit), then in addition to payments made to 3-C Bulgaria under Clause 6.5(a) or (b) in respect of the relevant Unit and to the extent not otherwise recovered by 3-C Bulgaria, the Purchaser will reimburse to 3-C Bulgaria and its Affiliates any additional costs, fees, dues and expenses incurred by 3-C Bulgaria or its Affiliates to third parties (other than an Affiliate of 3-C Bulgaria/its Affiliates) under any Project Agreement as a result of the Unusual Event to the extent they cannot be avoided or reduced through rapid, conscientious and good faith action by 3-C Bulgaria or its Affiliates.

(b) To the extent that an Unusual Event occurs or is continuing on or after the actual (but not deemed) Date of Commercial Operation (in the case of the First Unit) or the actual (but not deemed) Date of Full Commercial Operation (in the case of the Second Unit) and during the pendency thereof, the Purchaser shall make payments to 3-C Bulgaria as follows:

(i) in the case of:

(I) a Bulgarian Authority Action which commences prior to the Transition Date; or

(II) a Bulgarian Authority Action which commences subsequent to the Transition Date, a Bulgarian Incident or a Force Majeure Event (in the latter case declared by the Purchaser and

notwithstanding that it may also be declared as a Force Majeure Event by 3-C Bulgaria), to the extent the relevant event or occurrence has continued for a period of more than nine (9) months;

the Purchaser will pay to 3-C Bulgaria the aggregate of:

(1) Capacity Payments calculated on the basis that:

(A) the Available Capacity is deemed equal to the Available Contracted Capacity or, if:

(I) Availability Tests cannot take place during the Unusual Event, or

(II) if physical damage caused to the Complex as a result of such Unusual Event cannot be fully repaired during the Unusual Event;

the Contracted Capacity plus any Surplus Capacity plus any Third Party Capacity in respect of such period; and

(B) if such Unusual Event occurs during a Scheduled Outage and prevents completion of the relevant maintenance works, such works shall be deemed to have been completed at the time originally scheduled for their completion and thereafter 3-C Bulgaria shall be paid Capacity Payments determined in accordance with (A) above for the remainder of the duration of the Unusual Event and for a period of time thereafter equalling the period from the commencement of the Unusual Event to the time originally scheduled for completion of the relevant maintenance works plus any additional period as may be necessary to allow for remobilisation resulting from the interruption of the maintenance by the Unusual Event;

(2) Energy Payments calculated in accordance with Paragraph 2 of Appendix A;

(3) payments in respect of any Ancillary Services provided by 3-C Bulgaria to the Purchaser during such Unusual Event;

(4) any Reimbursements; and

(5) costs, fees, dues and expenses incurred by 3-C Bulgaria and/or its Affiliates under any Project Agreement as a result of the Unusual Event;

provided that such payments shall be reduced to the extent that:

(6) 3-C Bulgaria is in receipt of the proceeds of any insurance claim (submitted under any insurances which 3-C Bulgaria maintains including those maintained in accordance with Clause 11.2) in respect of amounts for which 3-C Bulgaria would otherwise receive payment under Clause 13.8(b)(i)(1), (2) or (5);

(7) 3-C Bulgaria has not incurred operating expenditure which would otherwise have been incurred but for the occurrence of the Unusual Event;

(8) 3-C Bulgaria is in receipt of compensation paid to it under any other Project Agreement in respect of amounts for which 3-C Bulgaria would otherwise receive payment under Clause 13.8(b)(i)(1), (2) or (5);

(9) 3-C Bulgaria is in receipt of revenues from the sale of electricity to third parties for the period of the relevant Unusual Event under arrangements concluded in accordance with Clause 13.6(d)(ii) but only to the extent these exceed the amount required to reimburse 3-C Bulgaria in respect of its variable cost of generating the Net Electrical Energy Output sold under such arrangements; or

(10) 3-C Bulgaria or its Affiliate (as the case may be) can otherwise avoid or reduce such payments through rapid, conscientious and good faith action;

and provided further that:

(11) if a Unit is already in an Non-Scheduled Outage at the commencement of the Unusual Event, then no payments shall be made under this Clause 13.8(b)(i) in respect of that Unit until the first to occur of:

(A) the cessation of such Non-Scheduled Outage; and

(B) 3-C Bulgaria notifying the System Operator that it is ready to conduct an Availability Test and/or resume Availability in respect of such Unit but it is unable to do so because of the effects of the relevant Unusual Event provided that if the Purchaser disputes such readiness this shall be referred to an Expert for resolution;

and for this purpose, the Minimum Monthly Quantity shall be reduced in proportion to the reduction in Availability of the Unit as a result of such Non-Scheduled Outage (apportioning on a

MWh basis by reference to the planned Availability of the Complex for the relevant Month); and

(12) to the extent that following receipt of payments from the Purchaser under this Clause 13.8(b)(i), 3-C Bulgaria receives revenues from the sale of electricity to third parties in respect of the same period under arrangements concluded in accordance with Clause 13.6(d)(ii), 3-C Bulgaria shall reimburse the Purchaser from such revenues but only to the extent these exceed the amount required to reimburse 3-C Bulgaria in respect of its variable cost of generating the Net Electrical Energy Output sold under such arrangements;

(ii) in the case of:

(I) a Bulgarian Authority Action which commences subsequent to the Transition Date; or

(II) a Bulgarian Incident; or

(III) a Force Majeure Event declared by the Purchaser (and notwithstanding that it may also be declared as a Force Majeure Event by 3-C Bulgaria);

the Purchaser will, during the first nine (9) months of such Unusual Event, pay to 3-C Bulgaria the aggregate of:

(1) the greater of:

(I) the Capacity Payments determined in accordance with Appendix A; and

(II) the amount which, after deduction of any Tax due thereon from 3-C Bulgaria to any Bulgarian Authority, is sufficient to enable 3-C Bulgaria and/or its Affiliates to pay instalments of principal and interest under the Financing Agreements (apportioned on an Invoicing Period-basis) and the fixed operating costs incurred by 3-C Bulgaria (excluding any fee due to any Affiliate of 3-C Bulgaria under the O&M Agreement but including reimbursement of costs and expenses thereunder);

provided that if such Unusual Event occurs during a Scheduled Outage and prevents completion of the relevant maintenance works, such works shall be deemed to have been completed at the time scheduled for their completion and 3-C Bulgaria shall be paid Capacity Payments determined as above for the remainder of the duration of the Unusual Event and for a period of time thereafter equalling the period from the commencement

of the Unusual Event to the time originally scheduled for completion of the relevant maintenance works plus any additional period as may be necessary to allow for remobilisation resulting from the interruption of the maintenance by the Unusual Event;

(2) Energy Payments calculated in accordance with Paragraph 2 of Appendix A;

(3) payments in respect of any Ancillary Services provided by 3-C Bulgaria to the Purchaser during such Unusual Event;

(4) any Reimbursements; and

(5) costs, fees, dues and expenses incurred by 3-C Bulgaria and/or its Affiliates under any Project Agreement as a result of the Unusual Event;

provided that such payments shall be reduced to the extent that:

(6) 3-C Bulgaria is in receipt of the proceeds of any insurance claim (submitted under any insurances which 3-C Bulgaria maintains including those maintained in accordance with Clause 11.2) in respect of amounts for which 3-C Bulgaria would otherwise receive payment under Clause 13.8(b)(ii)(1), (2) or (5);

(7) 3-C Bulgaria has not incurred operating expenditure which would otherwise have been incurred but for the occurrence of the Unusual Event;

(8) 3-C Bulgaria is in receipt of compensation paid to it under any other Project Agreement in respect of amounts for which 3-C Bulgaria would otherwise receive payment under Clause 13.8(b)(ii)(1), (2) or (5);

(9) 3-C Bulgaria is in receipt of revenues from the sale of electricity to third parties for the period of the relevant Unusual Event under arrangements concluded in accordance with Clause 13.6(d)(ii) but only to the extent these exceed the amounts required:

(I) to compensate 3-C Bulgaria for any Capacity Payments which have been foregone (and not otherwise recovered) as a result of the occurrence of the Unusual Event; and

(II) to reimburse 3-C Bulgaria in respect of its variable costs of generating the Net Electrical Energy Output sold under such arrangements; or

(10) 3-C Bulgaria or its Affiliates (as the case may be) can otherwise avoid or reduce such payments through rapid, conscientious and good faith action; and

and provided further that:

(11) if a Unit is already in a Non-Scheduled Outage at the commencement of the Unusual Event, then no payments shall be made under this Clause 13.8(b)(ii) in respect of that Unit until the first to occur of:

(A) the cessation of such Non-Scheduled Outage; and

(B) 3-C Bulgaria notifying the System Operator that it is ready to conduct an Availability Test and/or resume Availability in respect of such Unit but it is unable to do so because of the effects of the relevant Unusual Event provided that if the Purchaser disputes such readiness this shall be referred to an Expert for resolution;

and for this purpose, the Minimum Monthly Quantity shall be reduced in proportion to the reduction in Availability of the Unit as a result of such Non-Scheduled Outage (apportioning on a MWh basis by reference to the planned Availability of the Complex for the relevant Month);

(12) to the extent that following receipt of payments from the Purchaser under this Clause 13.8(b)(ii), 3-C Bulgaria receives revenues from the sale of electricity to third parties in respect of the same period under arrangements concluded in accordance with Clause 13.6(d)(ii), 3-C Bulgaria shall reimburse the Purchaser from such revenues but only to the extent these exceed the amounts required:

(A) to compensate 3-C Bulgaria for any Capacity Payments which have been foregone (and not otherwise recovered) as a result of the occurrence of the Unusual Event; and

(B) to reimburse 3-C Bulgaria in respect of its variable costs of generating the Net Electrical Energy Output sold under such arrangements;

(13) the Term shall be extended by such number of Days as shall enable 3-C Bulgaria to receive additional Capacity Payments in an aggregate amount which, after discounting each such payment at the rate of seventeen and a half per cent (17.5%) per annum, shall equal the amount of the Capacity Payments foregone (and not otherwise recovered) by 3-C Bulgaria due to the relevant Unusual Event.

(iii) during a Force Majeure Event declared by 3-C Bulgaria, the Purchaser will pay to 3-C Bulgaria the aggregate of:

(1) Capacity Payments, determined in accordance with Appendix A;

(2) Energy Payments, determined on the basis that the Minimum Monthly Quantity for an affected Unit shall be reduced in proportion to the reduction in Availability of the Unit as a result of such Force Majeure Event (apportioning on a MWh basis by reference to the planned Availability of the Complex for the relevant Month);

(3) payments in respect of any Ancillary Services provided by 3-C Bulgaria to the Purchaser during the Unusual Event; and

(4) any Reimbursements;

provided that:

(5) the Term shall be extended by such number of Days as shall enable 3-C Bulgaria to receive additional Capacity Payments in an aggregate amount which, after discounting each such payment at the rate of seventeen and a half per cent (17.5%) per annum, shall equal the amount of the Capacity Payments foregone (and not otherwise recovered) by 3-C Bulgaria and the amount of the Energy Payments foregone (and not otherwise recovered) by 3-C Bulgaria due to the Force Majeure Event.

(c) Capacity Payments and Energy Payments foregone shall be determined in accordance with Clause 1.2(o).

13.9 Reinstatement and De-Rating: Notwithstanding any other provision of this Agreement, if a Bulgarian Incident or a Force Majeure Event occurs that causes damage sufficient to make a Unit (or partially constructed Unit) inoperable or partially inoperable, then:

(a) 3-C Bulgaria may, within nine (9) Months of serving an Unusual Event Notice, notify the Purchaser in writing of its decision (which shall be within its sole discretion) whether or not to rebuild, repair or reinstate the Unit or, as the case may be, to complete the building of the same in which case, to the extent that the Capacity of the Unit is reduced by such damage:

(i) the provisions of Clause 13.7(a) shall continue to apply for such period (not exceeding forty-two (42) Months from such decision being notified to the Purchaser) as shall be reasonably required to enable 3-C Bulgaria to implement such rebuilding or reinstatement; and

(ii) the Term shall be extended in accordance with Clause 13.8(b)(iii)(5) by

the period from the Unusual Event Notice until the date on which the last of the damaged Units has entered or re-entered commercial operation;

and Table A-1 and Annex A-2 shall each be revised to reflect any new Scheduled Outage requirements which are a consequence of the relevant works,

(b) 3-C Bulgaria may, at any time during the continuance of such event or occurrence, notify the Purchaser in writing of its decision (which shall be within its sole discretion) to de-rate either or both Units under Clause 7.3(a) such that the aggregate of the Contracted Capacity and the Third Party Capacity shall be reduced by the lost Capacity, (as demonstrated through an Availability Test), the Third Party Capacity being reduced in priority to the Contracted Capacity; or

(c) 3-C Bulgaria may, at any time during the continuance of such event or occurrence, notify the Purchaser in writing of its decision (which shall be within its sole discretion) to terminate this Agreement by giving written notice thereof to the Purchaser, whereupon this Agreement shall terminate with immediate effect and:

(i) 3-C Bulgaria shall pay to the Purchaser on the Termination Date an amount (in Euro) equal to the aggregate of thirty-six thousand five hundred Euros (€ 36,500) per MW of Contracted Capacity (which, as at the date of termination, continues to be available, as confirmed by an Availability Test and any reduction in Capacity being applied to Third Party Capacity in priority to Contracted Capacity) for each Year of the Term that (but for the termination) would have fallen after the Termination Date up to a maximum of three (3) Years; and

(ii) none of the Parties shall have any other obligation or liability to any other Party arising out of such termination, provided that each Party shall, however, remain obliged in respect of any liabilities accruing prior to the Termination Date;

and provided that if 3-C Bulgaria fails to notify the Purchaser of its decision under Clause 13.9(a), (b) or (c) within twelve (12) Months of serving an Unusual Event Notice, then 3-C Bulgaria shall be deemed to have given a notice under Clause 13.9(b)

13.10 Option Rights for Prolonged Unusual Events:

(a) Where an Unusual Event lasts for a continuous period (following receipt by the other Parties of an Unusual Event Notice in respect thereof) of more than:

(i) thirty (30) Days in the case of a Bulgarian Authority Action;

(ii) nine (9) Months in the case of an event or occurrence which is a Bulgarian Incident and/or a Force Majeure Event other than one in respect of which the provisions of Clause 13.10(a)(iii) apply; or

(iii) the period specified in Clause 13.9(a)(i) if 3-C Bulgaria has opted to reinstate the Complex under Clause 13.9(a);

then after such continuous period either 3-C Bulgaria or the Purchaser (in the case of a Bulgarian Authority Action) and the Purchaser only (in any other case) shall be entitled, but not obliged, to exercise an option (which each of 3-C Bulgaria and the Purchaser hereby grants to the other) by written notice served on all Parties which shall oblige the Parties to proceed as follows (unless the Party exercising the option withdraws its notice prior to Transfer Closing):

(1) the Parties shall be obliged to proceed with the Complex Transfer in accordance with the provisions of Clause 16.2 (unless the relevant Unusual Event has ceased prior to Transfer Closing); and

(2) the Purchaser shall be obliged to pay to 3-C Bulgaria as consideration for the Complex Transfer an amount which (after deduction of any Taxes due from 3-C Bulgaria to any Bulgarian Authority arising in connection with the Outstanding Debt and Non-Avoidable Cost components of such consideration) is equal to:

(A) in the case of a Complex Transfer which takes place during the continuance and in consequence of a Bulgarian Authority Action which commenced prior to the Transition Date:

(I) 100% of the Outstanding Debt; and

(II) the aggregate of 100% of TF% of the Non-Avoidable Costs,100% of TF% of the Equity, 100% of TF% of the Interest on Equity and 100% of TF% of the Residual Value;

which amount shall be due at Transfer Closing;

(B) in the case of a Complex Transfer which takes place during the continuance and in consequence of a Bulgarian Authority Action which commenced following the Transition Date:

(I) the aggregate of 100% of the Outstanding Debt, 100% of TF% of the Non-Avoidable Costs, 50% of TF% of the Equity, 50% of TF% of the Interest on Equity and 50% of TF% of the Residual Value, which amount shall be due at Transfer Closing; and

(II) an amount equal to 50% of TF% of the Equity which shall be due in accordance with Clause 13.10(b);

(C) in the case of a Complex Transfer which takes place during the continuance and in consequence of a Bulgarian Incident:

(I) the aggregate of 100% of the Outstanding Debt, 100% of TF% of the Non-Avoidable Costs, 50% of TF% of the Equity, 50% of TF% of the Interest on Equity and 50% of TF% of the Residual Value, which amount shall be due at Transfer Closing; and

(II) an amount equal to 50% of TF% of the Equity which shall be due in accordance with Clause 13.10(b);

(D) in the case of a Complex Transfer which takes place during the continuance and in consequence of a Force Majeure Event:

(I) the aggregate of 100% of the Outstanding Debt, 50% of TF% of the Non-Avoidable Costs, 50% of TF% of the Equity, 25% of TF% of the Interest on Equity and 25% of TF% of the Residual Value, which amount shall be due at Transfer Closing; and

(II) 50% of TF% of the Equity which amount shall be due in accordance with Clause 13.10(b);

where "TF" is the Testing Factor.

(b) Where deferred consideration is provided for under Clauses 13.10(a)(2)(B), (C) or (D) or under Clause 15.6(d):

(i) this shall be satisfied by the Purchaser:

(1) out of net proceeds derived from its operation of the Complex subsequent to Transfer Closing less operating expenses, Taxes and deductions for provisions or reserves required by Legal Requirements, assuming such difference to be positive; and/or

(2) out of the net proceeds of a sale of the Complex or any assets comprised in the Complex by the Purchaser (including a Complex Transfer to a third party at Transfer Closing) being the aggregate of consideration for such sale (including deferred consideration and debt assumed by the transferee) less transaction costs and expenses and Tax liabilities incurred by the Purchaser in connection with such sale and after deductions of any provision or reserve required by Legal Requirements;

and where the Purchaser realises such proceeds they shall be applied by the Purchaser first in satisfying an equivalent part of the deferred

consideration due under Clauses 13.10(a)(2)(B), (C) or (D) or 15.6(d) in priority to any other application thereof;

(ii) the sale of electricity referred to in 13.10(b)(i)(1) and/or the sale of the Complex or any assets comprised in the Complex referred to in Clause 13.10(b)(i)(2) shall take place at the best price reasonably obtainable by the Purchaser having due regard to the position of the Complex in the Bulgarian energy market;

(iii) so long as the Purchaser operates the Complex following the Transfer Date, it shall at all times perform or cause to be performed the operation and maintenance of the Complex in accordance with:

(1) the requirements of the System Operator;

(2) Prudent Operating Practices;

(3) the terms and conditions of this Agreement concerning operation and maintenance of the Complex that were applicable to 3-C Bulgaria during the Term; and

(4) such Legal Requirements as may be applicable to the Complex;

and the operation of the Complex shall be considered as a stand-alone business operating separately from the other operations of the Purchaser without any cross-subsidisation or artificially created charges such as royalties, internal interest charges or similar deductions by the Purchaser or its Affiliates;

(iv) so long as any of the deferred consideration due under Clauses 13.10(a)(2)(B), (C) or (D) or 15.6(d) remains outstanding, the Purchaser shall instruct its auditors to provide a certificate to 3-C Bulgaria within one hundred and fifty (150) Days of the end of each Calendar Year confirming the amount, determined in accordance with Clause 13.10(b)(i) above, which is available for payment to 3-C Bulgaria and a detailed description of the basis of calculation of such amount, which amount shall be paid into the bank account nominated by 3-C Bulgaria within thirty (30) Days of the date of the certificate; and

(v) notwithstanding the provisions of Clause 13.10(b)(iv), 3-C Bulgaria shall be entitled to refer the determination of the amount available to be applied in satisfaction of the deferred consideration to an Expert for determination if it considers the amount specified in the auditor's certificate to be incorrect.

14. CONDITIONS PRECEDENT

14.1 Conditions Precedent:

(a) Except as specified in Clause 14.6, the enforceability and effectiveness of each Party's obligations under this Agreement is conditional upon the prior fulfilment of each of the following:

(i) Financial Close being achieved;

(ii) the Parties having agreed the form of the Legal Opinions, the Assignment of Receivables, the Direct Agreement and the Site Agreement, both as between themselves and with applicable third parties;

(iii) the Regulator having confirmed in writing its approval to the application of F_{CR} as determined in accordance with Paragraph 1 of Appendix A for the duration of the Term;

(iv) the Governmental Approvals which are listed in Part 1 of Appendix J having been issued;

(v) the Governmental Approvals which are listed in Part 2 of Appendix J having been issued;

(vi) the Project Agreements having been entered into by all applicable parties and all conditions precedent contained in each such agreement having been satisfied with the permitted exception of the giving of notice by 3-C Bulgaria or its Affiliate;

(vii) the Purchaser having received a Legal Opinion from counsel to 3-C Bulgaria and 3-C Parent;

(viii) 3-C Bulgaria and the Financing Parties having received a Legal Opinion from counsel to the Purchaser;

(ix) the representations and warranties of each Party contained in this Agreement being true and correct in all material respects immediately prior to the Effective Date and each Party having issued a certificate confirming the foregoing to the other Parties;

(x) 3-C Bulgaria having provided to the Purchaser copies of the company statutes of each of 3-C Parent and 3-C Bulgaria which are in force immediately prior to the Effective Date, which copies have been initialled by 3-C Parent and 3-C Bulgaria respectively for the purposes of identification;

(xi) the Purchaser having provided to 3-C Bulgaria a copy of the company statutes of the Purchaser which are in force immediately prior to the Effective Date, which copy has been initialled by the Purchaser for the purposes of identification;

(xii) each of 3-C Bulgaria and the Purchaser having complied with and/or being in continued compliance with their respective obligations under Clause 14.6 to the extent required for the purposes of achieving the Effective Date;

(xiii) ownership in and title to the Site having been transferred to 3-C Bulgaria and all easements and other rights connected with the Site which are, in the reasonable opinion of 3-C Bulgaria, required by it to enjoy its rights and perform its obligations under this Agreement having been granted to 3-C Bulgaria; and

(xiv) 3-C Parent having nominated an Affiliate to become 3-C Bulgaria in accordance with Clause 14.5 and such Affiliate having entered into the Accession Undertaking with the Parties.

(b) 3-C Bulgaria shall use its best efforts to satisfy or procure to be satisfied the foregoing conditions contained in sub-Clauses 14.1(a)(i), (ii), (iii), (iv), (vi), (vii), (ix), (x), (xii) and (xiv) provided that:

(i) it shall be within 3-C Bulgaria's sole discretion as to whether to incur development expenditure relating to the Project which, when aggregated with expenditure incurred prior to the date of this Agreement by 3-C Bulgaria, 3-C Parent, the shareholders of 3-C Parent and/or their respective Affiliates, exceeds
; and

(ii) once such development expenditure exceeds
3-C Bulgaria shall no longer be obligated to use its best efforts under this Clause 14.1(b) but instead its obligations shall be limited to using its reasonable efforts to satisfy such conditions.

For this purpose, expenditure connected with the Project incurred since 1st July 1998 shall be taken into account and internal management time of Persons employed by The AES Corporation and its Affiliates since 1st October 1999 shall be charged at cost, being

(c) The Purchaser shall use its best efforts to satisfy or procure to be satisfied the foregoing conditions contained in Clauses 14.1(a)(ii), (iii), (v), (vi), (viii), (ix), (xi), (xii) and (xiii) provided that:

(i) it shall be within the Purchaser's sole discretion as to whether to incur development expenditure relating to the Project following the date of this Agreement which, when aggregated with expenditure incurred by the Purchaser in connection with the Project since 1st July 1998, exceeds

(ii) once such development expenditure exceeds
the Purchaser shall no longer be obligated to use its best

efforts under this Clause 14.1(c) but instead its obligations shall be limited to using its reasonable efforts to satisfy such conditions.

For this purpose internal management time shall be charged at cost, being

14.2 Notice

(a) As each condition or part of a condition in Clause 14.1 is satisfied, any Party responsible for procuring satisfaction thereof shall notify the other Parties as soon as it becomes aware of the same.

(b) If at any time before the Effective Date any of such notifications shall relate to a condition in Clause 14.1 which no longer continues to be satisfied, a notice to that effect shall be sent to the other Parties by:

(i) the responsible Party (as provided for in Clause 14.1(b) and (c) above); or

(ii) where there is more than one responsible Party, any Party;

which shall inform the other Parties of the current status of such condition.

14.3 **Effective Date**: Following the notification of satisfaction of all conditions listed in Clause 14.1(a) in accordance with Clause 14.2, 3-C Bulgaria shall send a written notice to the Purchaser confirming the satisfaction of all such conditions. The Day such notice is received by the Purchaser shall be the effective date of this Agreement (the "**Effective Date**") and with effect from the Effective Date those provisions of this Agreement not already in force in accordance with Clause 14.6 shall come into full force and effect in accordance with their terms.

14.4 **Long Stop**: If the Effective Date has not occurred by the Long Stop Date of Financial Close

(a) due to 3-C Bulgaria failing to comply with its obligations under Clause 14.1(b) for reasons other than a failure of the Purchaser to comply with its obligations under Clause 14.1(c):

(i) the Purchaser may give 3-C Bulgaria and 3-C Parent sixty (60) Days' written notice of its intention to terminate this Agreement;

(ii) unless 3-C Bulgaria shall have cured its default within such sixty (60) Day period, this Agreement shall terminate with effect from the expiry of such period whereupon 3-C Bulgaria shall become liable to the Purchaser in the amount of which amount shall be settled within thirty (30) Days of such termination; and

(iii) such remedies shall be the sole remedies available to the Purchaser as against 3-C Bulgaria and/or 3-C Parent under this Agreement or otherwise arising out of any such failure on the part of 3-C Bulgaria;

(b) due to the occurrence of:

(i) a failure by the Purchaser to comply with its obligations under Clause 14.1(c) for reasons other than a breach by 3-C Bulgaria of its obligations under Clause 14.1(b); or

(ii) the failure of the condition in Clause 14.1(a)(iii) to be satisfied for any reason other than a breach by 3-C Bulgaria of its obligations under Clause 14.1(b); or

(iii) in the case of Project Agreements for which approval is required under Clause 3.2 and which have been approved or deemed approved under Clause 3.2, the failure of Brikel EAD or MMI or any other state-owned entity to enter into a Project Agreement for reasons other than a breach by 3-C Bulgaria of its obligations under Clause 14.1(b); or

(iv) the failure of the conditions in Clause 14.1(a)(iv) or (v) to be satisfied for reason of a Lapse of Consent which is continuing at the Long Stop Date of Financial Close; or

(v) any Purchaser Related Event;

then:

(I) 3-C Bulgaria may give the Purchaser and 3-C Parent sixty (60) Days' written notice of its intention to terminate this Agreement; and

(II) unless the condition(s) in Clause 14.1(a)(ii), (iii), (v), (vi), (viii), (ix), (xi), (xii) and (xiii) shall all have been satisfied or such Lapse of Consent or Purchaser Related Event shall have been cured (as the case may be) within such sixty (60) Day period this Agreement shall terminate with effect from the expiry of such period and the Purchaser shall pay to 3-C Bulgaria an amount equal to the aggregate of:

(1) all costs (including the cost of internal management time charged at a daily rate of), expenses and Taxes reasonably and properly incurred by 3-C Bulgaria, 3-C Parent, the shareholders of 3-C Parent and/or their respective Affiliates since 1st July 1998 in connection with the Project; and

(2) Interest less three percent (3%) on such costs, expenses and Taxes since the date each was incurred;

up to a maximum of , as such may

be verified and determined by an independent accounting firm jointly appointed by the Parties; and

(III) such remedies shall be the sole remedies available to 3-C Bulgaria and 3-C Parent as against the Purchaser under this Agreement or otherwise arising out of any such failure on the part of the Purchaser; and

(c) for any other reason, this Agreement may be terminated on one hundred and twenty (120) Days' notice served by a Party on the other Parties provided that if the Effective Date shall occur during such notice period such termination shall be cancelled and this Agreement shall continue in full force and effect.

14.5 **3-C Bulgaria:** 3-C Parent shall, immediately following the execution of this Agreement, nominate its Affiliate, AES-3C Maritza Iztok 1 EOOD, to become a Party to this Agreement as 3-C Bulgaria. For such Affiliate to become a Party to this Agreement, the Parties and AES-3C Maritza Iztok 1 EOOD shall execute the Accession Undertaking.

14.6 **Immediate Effect of Certain Obligations:** The provisions in Clauses 3.2, 4.1(a)(i), (iii), (iv) and (v), 5.1, 5.2(d), 10.8(a) and (b), 11.4, 11.5, 12, 14, 17.1, 19, 20, 21.1 and to the extent required to give effect to such Clauses, the provisions of Clauses 1, 10.2, 10.3, 10.4, 10.5, 18, 21.2 and 22 shall be in full force and effect from the date of this Agreement and notwithstanding Clause 14.1.

15. TERM AND TERMINATION

15.1 **Termination Date**: This Agreement shall continue until the first to occur of:

(a) the date of termination by 3-C Bulgaria under any of Clauses 13.9, 14.4 or 15.5;

(b) the date of termination by the Purchaser under either of Clauses 14.4 or 15.5;

(c) the date of termination in accordance with any of Clauses 15.7 or 16.2(b); and

(d) the last Day of the Term;

(the "**Termination Date**").

15.2 **Term of Agreement**: The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall, save where this Agreement is terminated at an earlier date, continue for a period expiring on the fifteenth (15th) anniversary of the Required Date of Full Commercial Operation (as extended in accordance with Clause 6.5(a) or (c) or Clause 13.8(b)(ii) or (iii) as the case may be).

15.3 **3-C Events of Default**: Each of the following events shall be a "**3-C Event of Default**" except to the extent resulting from a breach of this Agreement by the Purchaser

(a) any payment under this Agreement from 3-C Bulgaria to the Purchaser which has fallen due and remains unpaid for a period of thirty (30) Days after receipt of written notice that it is overdue from the Purchaser;

(b) the passing of a resolution by the relevant governing body of 3-C Bulgaria for the voluntary winding up, liquidation of, or other similar proceeding relating to 3-C Bulgaria;

(c) the appointment of a trustee, liquidator or similar Person in a proceeding referred to in Clause 15.3(b) above, which appointment has not been set aside or stayed within one hundred and twenty (120) Days after such appointment;

(d) a decision by a court having jurisdiction to wind up or otherwise confirm the bankruptcy of 3-C Bulgaria, which decision has not been set aside or stayed within one hundred and eighty (180) Days of being made;

(e) the merger, consolidation, amalgamation, reorganisation or reconstruction of 3-C Bulgaria to the extent this has a material and adverse effect on the ability of any Party to perform its obligations under this Agreement and which has not been remedied within thirty (30) Days after 3-C Bulgaria receives notice from the Purchaser requiring it to be remedied;

(f) any statement, representation or warranty made by 3-C Bulgaria or its Affiliates in this Agreement or in any of the Project Agreements to which the Purchaser is a party which proves to have been incorrect when made or when deemed to have been made to the extent this has a material and adverse effect on the ability of any Party or the relevant Affiliate to perform its obligations under this Agreement or the relevant Project Agreement and which has not been remedied within thirty (30) Days after 3-C Bulgaria receives notice from the Purchaser requiring it to be remedied;

(g) any of the events described in sub-Clauses 15.3(a) to (e) in relation to 3-C Parent;

(h) the failure of 3-C Bulgaria:

(i) to start construction of the Complex within thirty (30) Days after the Long Stop Construction Start Date;

(ii) to achieve the Date of Commercial Operation by the Long Stop Date of Commercial Operation(unless the First Unit has previously been de-rated to a zero Contracted Capacity under Clause 7.3(c)); or

(iii) to achieve the Date of Full Commercial Operation by the Long Stop Date of Full Commercial Operation (unless the Second Unit has previously been de-rated to a zero Contracted Capacity under Clause 7.3(c));

(i) revocation of 3-C Bulgaria's operating licence (issued pursuant to the Energy Act) and:

(1) the failure by 3-C Bulgaria to appeal in good faith against the decision of the relevant Bulgarian Authority to revoke the licence within the legally prescribed period; or

(2) 3-C Bulgaria having exhausted all available rights of appeal under the Legal Requirements or other legal remedies enabling it to dispute the revocation of the operating licence without resulting in the reinstatement or renewed validity of the operating licence;

except where such revocation is a Bulgarian Authority Action or a Bulgarian Incident;

(j) the occurrence of an event constituting a 3-C Event of Default as described in Clauses 16.2(a)(ii) or 16.2(a)(iv); and

(k) a breach by 3-C Bulgaria or its Affiliates of any of their material obligations under any Project Agreement to which the Purchaser is also a party which in any such case is not remedied within one hundred and eighty (180) Days after 3-C Bulgaria receives notice thereof from the Purchaser but excluding for the avoidance of doubt:

(1) events in respect of which any of the remedies specified in Clauses 5.2(a), 5.2(b), 7.3, 13.9(c), 14.4(a) or Paragraph 4 of Appendix A apply; and

(2) events addressed in Clauses 15.3(a) to (j).

15.4 **Purchaser Events of Default**: Each of the following events shall be a "**Purchaser Event of Default**" except to the extent resulting from a breach of this Agreement by 3-C Bulgaria:

(a) any payment under this Agreement from the Purchaser to 3-C Bulgaria or 3-C Parent which has fallen due and remains unpaid for a period of thirty (30) Days after receipt of written notice that it is overdue from 3-C Bulgaria or 3-C Parent (as the case may be);

(b) the passing of a resolution by the relevant governing body of the Purchaser for the voluntary winding up, liquidation of, or other similar proceeding relating to the Purchaser;

(c) the appointment of a trustee, liquidator or similar Person in a proceeding referred to in Clause 15.4(b) above, which appointment has not been set aside or stayed within one hundred and twenty (120) Days after such appointment;

(d) a decision by a court having jurisdiction to wind up or otherwise confirm the bankruptcy of the Purchaser, which decision has not been set aside or stayed within one hundred and eighty (180) Days of being made;

(e) the merger, consolidation, amalgamation, reorganisation, reconstruction of the Purchaser or a NEK Privatisation to the extent this has a material and adverse effect on the ability of any Party to perform its obligations under this Agreement and which has not been remedied within thirty (30) Days after the Purchaser receives notice from 3-C Bulgaria requiring it to be remedied;

(f) any statement, representation or warranty made by the Purchaser in this Agreement or in any of the Project Agreements to which 3-C Bulgaria and/or its Affiliates are a party which proves to have been incorrect when made or when deemed to have been made to the extent it has a material and adverse effect on the ability of any Party or its Affiliates to perform its obligations under this Agreement or the relevant Project Agreement and which has not been remedied within thirty (30) Days after the Purchaser receives notice from 3-C Bulgaria requiring it to be remedied;

(g) if, prior to EU Accession, the Government fails to perform its undertakings under the Project Support Letter (in accordance with its terms) or the Government amends or terminates the Project Support Letter or the Project Support Letter ceases to be in full force and effect (otherwise than in accordance with its terms) without the prior written consent of 3-C Bulgaria and the Financing Parties (each in their sole discretion) and in any such case this has not been remedied within thirty (30) Days after the Purchaser receives notice thereof from 3-C Bulgaria;

(h) revocation of the Purchaser's transmission licence (issued pursuant to the Energy Act) and:

(1) the failure by the Purchaser to appeal in good faith against the decision of the relevant Bulgarian Authority to revoke the licence within the legally prescribed period; or

(2) the Purchaser having exhausted all available rights of appeal under the Legal Requirements or other legal remedies enabling it to dispute the revocation of the licence without resulting in the reinstatement or renewed validity of the licence;

including where such revocation is a Bulgarian Authority Action or a Bulgarian Incident;

(i) the occurrence of an event constituting a Purchaser Event of Default as described in Clauses 16.2(a)(iii) or 16.2(a)(iv);

(j) the breach by the Purchaser of its obligations under Clause 20.1; and

(k) a breach by the Purchaser or its Affiliates of any of their respective material obligations under this Agreement or any other Project Agreement to which 3-C Bulgaria and/or its Affiliates are also a party which is not remedied within one hundred and eighty (180) Days after the Purchaser receives notice thereof from 3-C Bulgaria but excluding for the avoidance of doubt:

(i) events in respect of which any of the remedies specified in Clause 14.4(b) apply; and

(ii) events addressed in Clauses 15.4(a) to (j).

15.5 **Termination Procedure Upon an Event of Default**: Upon the occurrence of either a 3-C Event of Default or a Purchaser Event of Default and subject to the provisions of the Direct Agreement, the following procedure shall apply:

(a) a Party that is not the defaulting Party may give a notice of termination to the other Parties (a **"Notice of Intent to Terminate"**), specifying in reasonable detail the 3-C Event of Default or the Purchaser Event of Default, as the case may be;

(b) following the giving of a Notice of Intent to Terminate, the defaulting Party shall use its best efforts to cure such default within thirty (30) Days from the receipt of such notice in the case of events of default specified in Clauses 15.3(a) to (g) and 15.4(a) to (g) and (j) and within sixty (60) Days from the receipt of such notice in all other cases referred to in Clauses 15.3 and 15.4; and

(c) at any time after the expiry of the cure period pursuant to Clause 15.5(b), the Party having given the Notice of Intent to Terminate may terminate this Agreement by giving sixty (60) Days' written notice thereof to the other Parties and this Agreement shall terminate on the later of the expiry of such sixty (60) Days' written notice and (if the Purchaser has exercised its option under Clause 15.6(c) or (d)) Transfer Closing unless prior to such termination the 3-C Event of Default or the Purchaser Event of Default (as the case may be) shall have been cured

15.6 **Consequences of Termination:**

(a) If the Termination Date occurs because of a 3-C Event of Default, 3-C Bulgaria shall pay the Purchaser on the Termination Date as a lump sum an amount (in Lev) equal to per MW of the Contracted Capacity for each Year of the Term (and pro-rata for part of a Year) that (but for the termination) would have fallen after the Termination Date up to a maximum of (i) six (6) Years in the case of a termination following a 3-C Event of Default resulting from Wilful Misconduct on the part of 3-C Bulgaria and (ii) three (3) Years in all other cases provided however that the amount of such payment shall be proportionately reduced to the extent the Purchaser and 3-C Bulgaria enter into any separate power purchase agreement in respect of the whole or any part of such period. Such

payments, subject to their being made, shall, without prejudice to its rights under Clause 15.6(d), be the sole remedy available to the Purchaser as against 3-C Bulgaria and/or its Affiliates under this Agreement or otherwise, arising out of all 3-C Events of Default.

(b) If the Termination Date occurs because of a Purchaser Event of Default, the Purchaser shall pay 3-C Bulgaria on the Termination Date an amount (in Euros) which (after deduction of any Taxes due from 3-C Bulgaria to any Bulgarian Authority arising in connection with the Outstanding Debt and Non-Avoidable Cost components of such payment) equals the aggregate of:

(i) 100% of the Outstanding Debt; and

(ii) (1) if the relevant Purchaser Event of Default commenced on or before the date of Bulgarian Market Liberalisation, the aggregate of 100% of TF% of the Non-Avoidable Costs, 100% of TF% of the Equity and 100% of TF% of Interest on Equity; or

(2) if the relevant Purchaser Event of Default commenced following the date of Bulgarian Market Liberalisation, the aggregate of 100% of TF% of the Non-Avoidable Costs, 50% of TF% of the Equity and 50% of TF% of the Interest on Equity; and

multiplied by the Rating Factor. Such payment, once made, shall be the sole remedy available to 3-C Bulgaria and its Affiliates as against the Purchaser under this Agreement or otherwise, arising out of all Purchaser Events of Default. During the period between the Termination Date and the date on which the Term would have expired had this Agreement not been terminated (the **"Run-Out Period"**) the following provisions will apply:

(I) the net proceeds derived from:

(1) 3-C Bulgaria's operation of the Complex during the Run Out Period less operating expenses, Taxes and deductions for provisions or reserves required by Legal Requirements, up to the amount in respect thereof according to the Financial Model for the relevant Calendar Year; and/or

(2) a sale of the Complex or any assets comprised in the Complex by 3-C Bulgaria (excluding a Complex Transfer) being the aggregate of consideration (including deferred consideration and debt assumed by the transferee) less transaction costs, expenses and Tax liabilities incurred by 3-C Bulgaria in connection with such sale and after deductions of any provision or reserve required by Legal Requirements;

shall be applied in repaying amounts received by 3-C Bulgaria under Clause 15.6(b)(ii) until such time as such repayments to the Purchaser,

when aggregated with similar repayments made in respect of previous Calendar Years, equal the amount paid to 3-C Bulgaria by the Purchaser under Clause15.6(b)(ii);

(II) the sale of electricity referred to in Clause 15.6(b)(I)(1) and/or the sale of the Complex or any assets comprised in the Complex referred to in Clause 15.6(b)(I)(2) shall take place at the best price reasonably obtainable by 3-C Bulgaria having due regard to the position of the Complex in the Bulgarian energy market;

(III) so long as the Purchaser operates the Complex during the Run-Out Period, it shall at all times perform or cause to be performed the operation and maintenance of the Complex in accordance with:

(1) the requirements of the System Operator;

(2) Prudent Operating Practices;

(3) the terms and conditions of this Agreement concerning operation and maintenance of the Complex that were applicable to 3-C Bulgaria during the Term; and

(4) such Legal Requirements as may be applicable to the Complex;

(IV) for the purposes of the calculation of the net proceeds in accordance with 15.6(b)(I)(1) above, the operation of the Complex shall be considered as a stand-alone business operating separately from the other operations of 3-C Bulgaria or its Affiliates without any cross-subsidisation or artificially created charges such as royalties, internal interest charges or similar deductions by 3-C Bulgaria or its Affiliates to the extent these do not exist in any Project Agreement approved or deemed approved by the Purchaser under Clause 3.2.

(V) during the Run-Out Period 3-C Bulgaria shall instruct its auditors to provide a certificate to the Purchaser within one hundred and fifty (150) Days of the end of each Calendar Year confirming the amount, determined in accordance with Clause 15.6(b)(I) above, which is available for repayment to the Purchaser and a detailed description of the basis for calculation of such amount which shall be paid into the bank account nominated by the Purchaser within thirty (30) Days of the date of the certificate;

(VI) notwithstanding the provisions of Clause 15.6(b)(V), the Purchaser shall be entitled to refer the determination of the net proceeds available to be applied in accordance with Clause 15.6(b)(I) to an Expert for determination if it considers the amount specified in the auditor's certificate to be incorrect; and

(VII) during the Run-Out Period 3-C Bulgaria shall use all reasonable efforts to maximise its net proceeds available to be applied in accordance with 15.6(b)(I) above including through sales of Capacity and Net Electrical Energy Output to third parties and the provisions of Clause 15.9 shall apply.

(c) In the event of the service of a Notice of Intent to Terminate by 3-C Bulgaria due to a Purchaser Event of Default, the Purchaser shall have the option, but not the obligation, to require 3-C Bulgaria to proceed with a Complex Transfer. The Purchaser shall be entitled to exercise this option at any time before the termination of this Agreement pursuant to Clause 15.5(c) in which case the Termination Date shall be delayed until Transfer Closing has occurred. If the Purchaser exercises this option, the Complex Transfer shall proceed in accordance with Clause 16.2 and the consideration due from the Purchaser to 3-C Bulgaria at Transfer Closing shall be an amount which (after deduction of any Taxes due from 3-C Bulgaria to any Bulgarian Authority arising in connection with the Outstanding Debt and Non-Avoidable Cost components of such consideration) equals the aggregate of:

(i) 100% of the Outstanding Debt;

(ii) the aggregate of 100% of TF% of the Non-Avoidable Costs, 100% of TF% of the Equity and 100% of TF% of the Interest on Equity; and

(iii) 100% of TF% of the Residual Value;

less the amount due from the Purchaser to 3-C Bulgaria under Clause 15.6(b).

(d) In the event of the service of a Notice of Intent to Terminate by the Purchaser due to a 3-C Event of Default, the Purchaser shall have the option, but not the obligation, to require 3-C Bulgaria to proceed with a Complex Transfer. The Purchaser shall be entitled to exercise this option by written notice to 3-C Bulgaria at any time before the expiry of the period used to determine the liquidated damages paid by 3-C Bulgaria to the Purchaser under Clause 15.6(a). If the Purchaser serves such notice prior to the termination of this Agreement, the Termination Date shall be delayed until Transfer Closing has occurred. If the Purchaser exercises this option, the Complex Transfer shall proceed in accordance with Clause 16.2 and the consideration due from the Purchaser to 3-C Bulgaria at Transfer Closing shall be an amount which (after deduction of any Taxes due from 3-C Bulgaria to any Bulgarian Authority arising in connection with the Outstanding Debt component of such consideration) equals the aggregate of:

(i) 100% of the Outstanding Debt paid at Transfer Closing; and

(ii) 50% of TF% of the Equity paid at Transfer Closing;

(iii) 50% of TF% of the Equity, due in accordance with Clause 13.10(b).

15.7 **Termination by Mutual Agreement**: The Parties may terminate this Agreement at any time by written agreement between them upon such terms and conditions as they may agree

15.8 **Cumulation**: The termination remedies under this Clause 15 are not exclusive remedies (except to the extent stated in Clauses 15.6(a) and (b)) and the exercise of, or failure to exercise, one or more of them by a Party shall not limit, affect or preclude the exercise of, or constitute a waiver of any other remedies available to such Party under Clause 18 or otherwise, except as specified in this Clause 15.

15.9 **Co-operation following Termination:** If this Agreement is terminated for any reason, and unless a Complex Transfer has occurred, the Purchaser shall provide all reasonable assistance to 3-C Bulgaria to enable it to find domestic or foreign customers for its Capacity and the Net Electrical Energy Output generated thereby and to enter into sales contracts therefor, either directly or through the Purchaser or other intermediaries. Such assistance shall include, to the extent permitted under the Legal Requirements and, subject to physical delivery constraints, access to the Grid System, dispatch of Third Party Capacity and transmission of such Net Electrical Energy Output at tariffs which are not Discriminatory.

16. POSSESSION AND TRANSFER OF THE COMPLEX

16.1 **Possession of the Complex**:

(a) As between the Parties, 3-C Bulgaria shall at all times during the Term have the right to full possession, use and quiet enjoyment of the Complex and the Site, as more particularly described in the Site Agreement.

(b) During the period between the date of this Agreement and the date that possession of the Site is granted to 3-C Bulgaria under the Site Agreement the Purchaser shall ensure that 3-C Bulgaria, its Affiliates, the Financing Parties and their respective agents and contractors shall be allowed access to the Site on reasonable notice and at reasonable times for the purposes of enabling 3-C Bulgaria to comply with those of its obligations under this Agreement which are effective from the date of this Agreement.

(c) In the event that the Effective Date has not occurred by the Long Stop Date of Financial Close, 3-C Bulgaria shall re-transfer the Site to the Purchaser and/or Brikel EAD, as more particularly described in the Site Agreement, not later than the termination of this Agreement.

(d) All Taxes (excluding any corporate Taxes arising on any gain made by the Purchaser from such transfer) payable by either the transferor or the transferee in respect of any transfer of the Site pursuant to the Site Agreement shall be borne by 3-C Bulgaria. 3-C Bulgaria shall indemnify the Purchaser from and against all Taxes required to be paid by the Purchaser to any Bulgarian Authority in respect of any transfer of the Site (excluding any corporate Taxes arising on any gain made by the Purchaser from such transfer) made pursuant to the Site Agreement.

16.2 **Transfer Procedure**:

(a) Upon the exercise of an option for the Complex Transfer under any of Clauses 13.10(a), 15.6(c) or 15.6(d), the following procedures shall apply:

(i) Transfer Closing shall take place on the first Business Day following the expiry of sixty (60) Days after the date of the exercise of the relevant option and shall be conditional upon the following:

(1) the issue of the Transfer Security to the Purchaser, duly executed by The AES Corporation, except where the option has been exercised by 3-C Bulgaria or the Purchaser following a Bulgarian Authority Action or the option has been exercised under Clause 15.6(d);

(2) 3-C Bulgaria being in receipt of all amounts due from the Purchaser and outstanding under this Agreement as at Transfer Closing, including any payment due from the Purchaser to 3-C Bulgaria under Clause 15.6(b);

(3) the procedures contained in Appendix I (Complex Transfer Procedures) having been satisfied to the extent required to be satisfied before Transfer Closing;

(4) subject to the prior satisfaction of the conditions referred to in (1) to (3) above, payment (in Euros) by the Purchaser of the consideration specified for payment at Transfer Closing under Clause 13.10(a), 15.6(c) or 15.6(d), as the case may be, to the bank account of 3-C Bulgaria and such amount having been received by 3-C Bulgaria; and

(5) as at the date of the satisfaction of the condition referred to in (4) above, the relevant Unusual Event, 3-C Event of Default or Purchaser Event of Default, as the case may be, which entitled the relevant Party to exercise its option to cause the Complex Transfer not having ceased or been cured.

(ii) Satisfaction of the condition specified in Clause 16.2(a)(i)(1) shall be the sole responsibility of 3-C Bulgaria and failure to satisfy such condition shall be a 3-C Event of Default.

(iii) Satisfaction of the conditions specified in Clauses 16.2(a)(i)(2) and (4) shall be the sole responsibility of the Purchaser and failure to satisfy such conditions shall be a Purchaser Event of Default.

(iv) Satisfaction of the condition specified in Clause 16.2(a)(i)(3) shall be the joint responsibility of 3-C Bulgaria and the Purchaser and failure by either such Party to use its best efforts to satisfy such condition shall be

a 3-C Event of Default or a Purchaser Event of Default, as the case may be

(b) Upon Transfer Closing occurring, this Agreement shall terminate (if it has not already terminated in the case permitted under Clause 15.6(d)).

(c) Following Transfer Closing, 3-C Bulgaria and the Purchaser shall each comply with their respective remaining obligations under Appendix I and the Purchaser shall be entitled to enforce the Transfer Security (if issued under Clause 16.2(a)(i)(1)) as security for any failure by 3-C Bulgaria to perform such obligations.

(d) The Purchaser shall be responsible for the payment of any transaction costs, expenses and transfer Taxes incurred in Bulgaria which are related to a Complex Transfer arising from a Purchaser Event of Default or a Bulgarian Authority Action. 3-C Bulgaria shall be responsible for the payment of any transaction costs, expenses and transfer Taxes incurred in Bulgaria which are related to a Complex Transfer arising from a 3-C Event of Default. Where there is a Complex Transfer arising from a Force Majeure Event or a Bulgarian Incident the payment of any transaction costs, expenses and transfer Taxes incurred in Bulgaria will be made in equal proportions by 3-C Bulgaria on the one part and the Purchaser on the other part. 3-C Bulgaria shall be responsible for the payment of any transaction costs, expenses and transfer Taxes incurred outside Bulgaria which are related to any Complex Transfer.

17. REPRESENTATIONS, WARRANTIES AND COVENANTS

17.1 **Representations and Warranties**: Each Party, in relation to itself, hereby represents and warrants to the other Parties that:

(a) it is duly incorporated, validly existing and in good standing under the laws of its country of incorporation;

(b) it has all requisite legal power and corporate authority to execute, deliver and perform its obligations under this Agreement and each of the other Project Agreements to which it is a party;

(c) there are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it before any court or administrative body or arbitral tribunal which might materially and adversely affect its ability to meet and carry out its obligations under this Agreement and each of the other Project Agreements to which it is a party;

(d) this Agreement has been duly authorised, executed and delivered by it and the provisions of this Agreement and each of the other Project Agreements to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their terms except as the enforceability may be limited by applicable bankruptcy, insolvency or other similar laws affecting creditors' rights generally; and

(e) in the case of a representation given by the Purchaser, it has such permits, licenses and approvals required from all Bulgarian Authorities with jurisdiction over it as are necessary to enable it to enter into and perform this Agreement, conduct its operations and own and operate the Grid System.

17.2 **Covenants of 3-C Bulgaria**: 3-C Bulgaria hereby covenants as follows:

(a) 3-C Bulgaria shall own, operate and maintain the Complex in accordance with the provisions of Clause 7.1;

(b) 3-C Bulgaria shall use its reasonable efforts to ensure that any Project Agreements, excluding the Financing Agreements, the Project Services Agreements (if any) and the O&M Agreement (if the operator is an Affiliate of 3-C Bulgaria), are, upon transfer of the Complex to the Purchaser in accordance with Clause 16.2, assigned to the Purchaser upon the same terms and conditions as were applicable to 3-C Bulgaria and/or its Affiliates (as the case may be);

(c) 3-C Bulgaria shall advise the Purchaser of any material temporary operating constraints and limits which may from time to time apply to the Complex;

(d) 3-C Bulgaria shall, so far as material to the Purchaser's rights and obligations under this Agreement:

(i) comply with all Legal Requirements;

(ii) give all required notices in respect of and procure and maintain all Governmental Approvals required to be obtained by 3-C Bulgaria under Clause 3.1(c); and

(iii) pay all charges and fees in connection therewith; and

(e) 3-C Bulgaria shall observe and perform in accordance with their terms those provisions contained in each Appendix to this Agreement which are expressed in such Appendix to be its obligations.

17.3 **Covenants of the Purchaser**: The Purchaser hereby covenants as follows:

(a) the Purchaser shall design, construct, commission, operate and maintain the Interconnection Facilities substantially in accordance with Appendix L, Prudent Operating Practices and all applicable Legal Requirements and in a manner that will not have an adverse effect on the Complex or either Unit or delay the Project Schedule;

(b) the Purchaser:

(i) shall operate and maintain the Grid System in accordance with Prudent Operating Practices and all applicable Legal Requirements and in a

manner that will not have an adverse effect on the Complex or either Unit;

(ii) shall obtain and maintain such permits, licences and approvals required by any Bulgarian Authorities with jurisdiction over the Purchaser as are necessary to enable the Purchaser to own and operate the Grid System; and

(iii) shall ensure that the Grid System remains capable of receiving and distributing the Net Electrical Energy Output in a safe and reliable manner;

(c) the Purchaser shall, so far as material to 3-C Bulgaria' rights and obligations under this Agreement:

(i) comply with all Legal Requirements;

(ii) give all required notices in respect of and procure and maintain all Governmental Approvals required to be obtained by the Purchaser under Clause 4.1(a)(iv); and

(iii) pay all charges and fees in connection therewith;

(d) the Purchaser shall observe and perform in accordance with their terms those provisions contained in each Appendix to this Agreement which are expressed in such Appendix to be its obligations; and

(e) from the date of this Agreement and until the Termination Date the Purchaser will not execute any power purchase or energy conversion or other similar power agreement for:

(i) any power plant which is part of the Maritza East 1 Complex (being the area occupied at the date of this Agreement by the Site, the TPP and Brikel EAD); or

(ii) an improvement, add on, expansion or extension of any such power plant;

unless 3-C Bulgaria or its Affiliate shall first have been offered an opportunity to negotiate and execute a power agreement with the Purchaser on substantially similar terms and conditions and 3-C Bulgaria shall have declined to do so, provided that:

(1) the capacity payments under such other power agreement shall be increased to reflect the costs and expenses (reasonably incurred by 3-C Bulgaria or its Affiliate) of design, supply, financing, construction, operation and/or maintenance of such power project to the extent these exceed those provided for in such capacity payments; and

(2) the rights of 3-C Bulgaria and the obligations of the Purchaser under this Clause 17.3(e) shall be subject to the obligation of each Party to comply with all applicable Legal Requirements in such connection.

18. SETTLEMENT OF DISPUTES

18.1 Regular Meetings: Throughout the Term of this Agreement, representatives of the Parties shall meet regularly but not more than four (4) times a Calendar Year (unless the Parties agree otherwise) to discuss the progress of the Project and the operation of the Complex in order to ensure that the arrangements between the Parties hereto proceed in an orderly and mutually satisfactory manner.

18.2 Settlement of Disputes: Any and all disputes arising out of or in connection with this Agreement or a document, transaction or matter connected with this Agreement, including disputes regarding the interpretation, scope or validity of this Agreement or any alleged breach of any provision contained herein or any money owed hereunder (a **"Dispute"**), shall be resolved by the Parties pursuant to this Clause 18, but subject always to Clause 18.11. In the event a Party raises a Dispute, it shall promptly provide the other Parties with written notice thereof, which notice shall include:

(a) a description of the Dispute;

(b) the grounds on which the Party relies in seeking to have the Dispute determined in its favour; and

(c) any written material in support of the Party's position.

Upon receipt of such notification, the Parties shall either (i) submit the Dispute to an Expert under Clause 18.12 if referral to an Expert has been specifically provided for in this Agreement or is otherwise agreed by the Parties or (ii) cause an officer of their respective companies to meet, negotiate and attempt to resolve the Dispute on an amicable basis within fifteen (15) Business Days. If such officers do not mutually agree to a written resolution of the Dispute within such period, then the chief executive officers of 3-C Bulgaria (on behalf of 3-C Bulgaria and 3-C Parent) and the Purchaser shall attempt to resolve the Dispute through friendly means within an additional fifteen (15) Business Day period. If the executive directors of 3-C Bulgaria and the Purchaser do not mutually agree to a written resolution of the Dispute within such period, then the arbitration provisions of this Clause 18 shall apply.

18.3 Arbitration:

(a) If the Dispute cannot be settled within the period of time prescribed by Clause 18.2 (and provision for binding Expert determination has not been provided for hereunder or otherwise agreed by the Parties), then any Party may submit the Dispute for arbitration under and in accordance with the arbitration rules contained in Resolution 31/98 adopted by the United Nation's General Assembly on December 15, 1976 and entitled "Arbitration Rules of the United Nation's Commission on International Trade Law" as in force at the time such arbitration is commenced (**"UNCITRAL Rules"**) for final resolution provided

however, that to the extent UNCITRAL Rules conflict with the provisions of this Clause 18, the provisions of this Clause 18 shall prevail. The Party submitting the Dispute to arbitration shall so notify the other Parties in accordance with UNCITRAL Rules.

(b) 3-C Bulgaria and 3-C Parent jointly undertake to the Purchaser that in the event that 3-C Bulgaria raises a Dispute under Clause 18.2 and desires to submit that Dispute to arbitration under this Article 18.3, submission of the Dispute shall be effected jointly by 3-C Bulgaria and 3-C Parent, constituting a single party for the purposes of the arbitration and for which purpose 3-C Parent and 3-C Bulgaria shall be jointly represented by legal counsel.

(c) The Purchaser acknowledges that pursuant to the undertakings given by it in Clause 21.1, 3-C Parent has a legitimate and tangible interest with respect to any Dispute raised by 3-C Bulgaria and the Purchaser hereby confirms that it shall not raise any objections to the participation by 3-C Parent in any such arbitration proceedings or challenge the enforcement against the Purchaser in any jurisdiction (including Bulgaria) of any award given pursuant to such arbitration proceedings.

(d) The Purchaser undertakes to 3-C Bulgaria and 3-C Parent that in the event that it raises a Dispute under Clause 18.2 against 3-C Bulgaria and desires to submit that Dispute to arbitration under this Article 18.3, submission of the Dispute shall be effected by the Purchaser naming 3-C Bulgaria and 3-C Parent as joint respondents, constituting a single party for the purposes of the arbitration and for which purpose 3-C Parent and 3-C Bulgaria shall be jointly represented by legal counsel.

18.4 **Selection of Arbitrators**: The Dispute shall be settled by a tribunal consisting of three (3) arbitrators who shall each be appointed by the International Chamber of Commerce (the "**ICC**") within twenty-five (25) Days of the date of a request to initiate arbitration, provided, however, that 3-C Bulgaria and 3-C Parent acting jointly on the one hand and the Purchaser on the other hand may each reject one (1) appointed arbitrator within ten (10) Days of the date of such arbitrator's appointment, in which case such arbitrator shall be removed and a new arbitrator shall be appointed by the ICC. Each arbitrator shall be fluent in the English language and shall be familiar with the legal, financial or operational aspects of the international power industry. No arbitrator shall be a national or resident of either Bulgaria or Mauritius or the United States of America or Germany (or the countries of incorporation of a Party's legal successors or permitted assignees or transferees). The arbitral tribunal shall be competent to rule on its own substantive jurisdiction and, without limiting the generality of the foregoing, to determine disputes as to the validity and meaning of any provision about arbitration which is contained in this Agreement. Notwithstanding the provisions of this Agreement, each Party shall have the right to institute judicial proceedings in aid of arbitration.

18.5 **Location and Language**: The location of the arbitration shall be London, England. The arbitration proceedings shall be conducted in the English language with simultaneous translation into Bulgarian and all documents and evidentiary materials

submitted by the Parties shall be submitted in the English language together with Bulgarian language translations. Each Party waives any objection it may now or hereafter have to the above venue and specifically waives any objection that any Dispute resolved under this Clause 18 was brought in any inconvenient forum and agrees not to plead or claim the same. In so far as the representative of any Party or any witness requires a visa to enter the United Kingdom, the commencement of the arbitration hearings shall be delayed for up to 30 (thirty) Days to allow visas to be obtained and for this purpose the Parties shall use their reasonable efforts to assist in the necessary applications.

18.6 **Monetary Awards**: Any monetary award of the arbitral tribunal shall be made to the bank account nominated by the payee and payable in Euros or, in the case of debts originally denominated in Lev, in Lev. Any such monetary award shall accrue Interest from the date of the notification of the Dispute in accordance with Clause 18.3 to the date when the award is paid in full except in the case of a 3-C Invoice Dispute or a Purchaser Invoice Dispute when such Interest shall accrue from the date the relevant sum was originally due under the disputed invoice to the date when the award is paid in full.

18.7 **Arbitration Costs**: The prevailing Parties in any arbitration proceeding shall be entitled to recover all of their reasonable costs and expenses of arbitration and all reasonable costs and expenses related thereto (including attorneys' fees and expenses), in Euros, from a non-prevailing Party, provided, however, that if a Party is non-prevailing only in part, such Party shall bear the prevailing Parties' costs and expenses in proportion to the extent to which it is non-prevailing. Any costs and expenses due and payable to a Party under this Clause 18.7 shall be apportioned by and, in the event as to a dispute over any amount, finally determined by the arbitrators appointed under Clause 18.4

18.8 **Description of Award**:

(a) The arbitral award rendered by the arbitral tribunal shall be in writing (in English with a Bulgarian translation) and shall set forth in reasonable detail the facts of the Dispute and the reasons for the arbitral tribunal's decision.

(b) Any Party shall be entitled to apply in writing to the arbitral tribunal (with a copy to the other Parties) within 10 (ten) Days of the date of receipt of the award for reconsideration and/or clarification of such award where, in its reasonable opinion:

(i) the award contains an error of fact or an error of law;

(ii) there is a need for interpretation of the award;

(iii) the arbitral tribunal has not considered an issue in Dispute; or

(iv) the arbitral tribunal has ruled on a matter that is not the subject of the Dispute.

(c) The arbitral tribunal shall be required to respond in writing on such application (by way of clarification, confirmation or amendment to the award) within 20 (twenty) Days of such application being made, failing which the original award shall be conclusive. Each Party shall only be entitled to submit one such application.

18.9 **Binding Effect**: The award rendered in any arbitration commenced hereunder shall be final and binding upon the Parties and judgement thereon may be entered in any court having jurisdiction for its enforcement. Each Party hereby waives, to the extent permitted by law, any rights to appeal such award to, or to have such award reviewed by, any court or tribunal and agrees that the arbitral award may be enforced against it and its assets wherever they may be found. The Parties agree that the enforcement of the award of the arbitral tribunal shall be the sole remedy between them regarding any and all Disputes submitted for arbitration hereunder, including all claims, counterclaims, issues and accounting presented to the arbitrators, irrespective of the magnitude thereof. In addition, the Parties agree that no Party shall have any right to commence or maintain any suit or legal proceeding concerning a Dispute hereunder until the Dispute has been determined in accordance with the arbitration procedure provided for herein and then only to enforce or facilitate the execution of the award rendered in such arbitration.

18.10 **Obligation to Continue Performance**: During the pendency of any arbitration:

(a) 3-C Bulgaria shall, to the extent possible, continue to perform its obligations under this Agreement to produce and deliver the Net Electrical Energy Output and make Units Available;

(b) the Purchaser shall continue to pay all amounts invoiced by 3-C Bulgaria in accordance with the terms of this Agreement, without set-off in respect of any amount in Dispute, during the pendency of such arbitration.

18.11 **International Arbitration**:

(a) Any arbitration pursuant to this Clause 18 shall be an international arbitration, governed by and conducted under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958) (the **"New York Convention"**). If at any time Bulgaria ceases to be a signatory to the New York Convention, the Parties agree to execute an amendment to this Agreement which shall ensure, to the fullest extent allowed by law, that the provisions and intent of the New York Convention applicable to this Agreement are thereby incorporated into this Agreement and become binding upon the Parties.

(b) If, at any time, reference of a Dispute to international arbitration under Clause 18.3 is not permitted according to the Legal Requirements, the matter shall be referred to arbitration by the Arbitration Court at the Bulgarian Chamber of Commerce under and in accordance with the UNCITRAL Rules and in all other respects in accordance with the provisions of Clauses 18.3 to 18.10 unless any such provisions are contrary to the Legal Requirements in which

case the relevant provisions of the rules of the Arbitration Court at the Bulgarian Chamber of Commerce shall apply.

18.12 **Expert**: Where this Agreement provides that any Dispute or other matter shall be referred to an Expert or the Parties so agree, the following provisions shall apply:

(a) the Expert shall be an independent Person with relevant experience in the international power industry who is willing to act as agreed between the Parties, provided that the Expert shall not be a citizen or resident of either Bulgaria or Mauritius or the United States of America or Germany (or the countries of incorporation of a Party's legal successors or permitted assignees or transferees). The Expert shall be selected jointly by the Parties within fourteen (14) Days of a request in writing by any Party to appoint an Expert. If no Expert can be agreed upon by the Parties within that time period, then such Expert shall be selected by request of any Party to the International Centre for Expertise of the ICC in Paris, France;

(b) for thirty (30) Days after the appointment of the Expert, or such other period as the Parties may agree, each Party may make such written submissions as it wishes to the Expert and shall simultaneously provide a copy to the other Parties and at the end of such thirty (30) Day period each Party shall have a period of ten (10) Days to make counter-submissions to the Expert (with a copy to the other Parties) in reply to the other Parties' written submissions made during the aforementioned thirty (30) Day period, provided that none of the Parties shall during such ten (10) Day period make any written counter-submission which purports to reply to, raise or refer to any new matters not raised or referred to in any submission made during the aforementioned thirty (30) Day period;

(c) after the end of the ten (10) Day period referred to in Clause 18.12(b) but no later than ten (10) Days thereafter each Party may, with the consent of the Expert and at a time and place decided by the Expert, make an oral presentation to the Expert in the presence of the other Parties commenting on or explaining matters previously submitted to the Expert in writing;

(d) the Expert shall be required by the Parties to render his determination in writing within ten (10) Days of the completion of the oral presentation given in accordance with Clause 18.12(c) or (in the absence of any oral presentation) within twenty (20) Days after the end of the ten (10) Day period referred to in Clause 18.12(b) and to give reasonable details of the reasons for his determination provided, however, that if the Expert determines that due to the complexity of a matter submitted to him or her, a fair and equitable determination of such matter requires a longer period of time than is provided for in this Clause 18.12, then such Expert may lengthen the maximum time periods allowed in this Clause 18.12 provided, however, that in no event shall such extended time periods be more than double the length of time originally provided for in this Clause 18.12;

(e) the decision of the Expert shall be final and binding upon the Parties save in the event of fraud or manifest error; and

(f) each Party shall bear the costs and expenses of all lawyers, witnesses and employees retained by it but the costs and expenses of the Expert and any independent advisers to the Expert applicable to any matter under this Agreement shall be apportioned equally between the Purchaser and 3-C Bulgaria.

18.13 **Joinder of Claims Under Project Agreements:** In order to facilitate the comprehensive resolution of related disputes, and upon the request of any Party to any arbitration proceeding constituted pursuant to this Clause, the arbitral tribunal shall consolidate such proceeding with any concurrent proceeding relating to any Project Agreement if the arbitral tribunal determines that (i) there are issues of fact or law common to the proceedings so that a consolidated proceeding would be more efficient than separate proceedings and (ii) no party to any of the relevant arbitral proceedings would be prejudiced as a result of such consolidation through undue delay or otherwise. In the event of different rulings on this question by the arbitral tribunal constituted hereunder and a tribunal constituted under the relevant Project Agreement, the ruling of the arbitral tribunal constituted first in time shall prevail. In the case of a consolidated proceeding, the parties to such consolidated proceeding shall within twenty (20) Days of the order of consolidation determine which arbitral tribunal shall preside. Failing agreement within such time period, the Court of Arbitration of the ICC upon the written request of any party to the consolidated arbitration shall determine which arbitral tribunal shall preside (and the Parties shall use all reasonable efforts to cause such determination to be made within thirty (30) Days of such request). The Parties expressly agree to comply with any consolidation decided upon by the arbitral tribunal under the terms of this Agreement. In the case of a consolidated proceeding the arbitral tribunal shall have power to make such directions and all necessary awards in the same way as if the procedures of the High Court of Justice in England as to the joining of additional defendants or third parties was applicable to the arbitration proceedings.

18.14 **Enforcement of arbitral award by Purchaser:** The Purchaser undertakes to 3-C Bulgaria and to 3-C Parent that it shall only seek to enforce any arbitral award for payment of money and (if applicable) costs and expenses against 3-C Bulgaria if and to the extent that 3-C Parent fails to pay such money and (if applicable) costs and expenses to Purchaser pursuant to Clause 21.2 within the period prescribed in the award for such payment to be made.

18.15 **Survival of Clause 18:** This Clause 18 shall not be regarded as void or ineffective in the event of this Agreement being or becoming void or ineffective and those provisions shall, for this purpose be treated as a distinct agreement.

19. ASSIGNMENT

19.1 **General**: No Party may sell, assign or otherwise transfer its rights or obligations under or pursuant to this Agreement without the prior written consent of the other Parties provided, however, that 3-C Bulgaria and 3-C Parent may, for the purpose of financing

the Project, assign or create a security interest in their rights and interests under or pursuant to this Agreement, the Complex or any part thereof, including the moveable property and intellectual property of 3-C Bulgaria or the revenues or any of the rights or assets of 3-C Bulgaria or 3-C Parent's ownership rights in 3-C Bulgaria. Any actual, attempted or purported sale, assignment or other transfer by a Party of any of its rights or obligations or interests in, under or pursuant to this Agreement that does not comply with the terms of this Clause 19 shall be null, void and of no force or effect.

19.2 **Assignment to Affiliates:** Each of 3-C Bulgaria and 3-C Parent may assign all or any part of its entire rights, interests and obligations hereunder to an Affiliate provided such assignment shall not result in any change in any of the terms of this Agreement and provided that details are provided in advance to the Purchaser of the corporate statutes of the proposed assignee, of the directors and shareholders and of any other information that the Purchaser may reasonably request for the purpose of satisfying itself that the assignee will be able to perform the obligations of the assignor hereunder. Such assignment may not proceed without the prior written consent of the Purchaser. If either 3-C Bulgaria or 3-C Parent so assigns any such rights to an Affiliate, such assignment shall only become effective upon the relevant Affiliate agreeing to become a Party to and to be bound by the terms of this Agreement with effect from the date of such assignment. Following such assignment becoming effective, the assignor shall cease to have any further obligations under this Agreement and shall not be liable for the actions of the assignee occurring after the date of the assignment.

19.3 **Purchaser Consent**: The Purchaser hereby irrevocably consents to an assignment of 3-C Bulgaria's and 3-C Parent's rights hereunder to the Financing Parties and agrees:

(a) to make payments owing from the Purchaser to 3-C Bulgaria directly into a collateral security account, which account will be pledged to the Financing Parties thereunder without right of set-off;

(b) to enter into a Direct Agreement with 3-C Bulgaria, the 3-C Parent and the Financing Parties or their representative; and

(c) to discuss and negotiate in good faith such amendments to this Agreement as may be reasonably requested by the Financing Parties prior to the Effective Date.

19.4 **Succession of Financing Parties**:

(a) If 3-C Bulgaria's or 3-C Parent's interest in the Project shall be acquired by one or all of the Financing Parties through exercise of rights under the Financing Agreements, then the Purchaser agrees that the Financing Parties may, subject to compliance with applicable Legal Requirements, succeed by way of assignment to the interests of 3-C Bulgaria and 3-C Parent under this Agreement which shall continue undisturbed and in full force and effect.

(b) Nothing in this Agreement shall prevent or restrict 3-C Bulgaria from refinancing the Project provided always that the provisions of Clause 3.2 shall

apply in relation to any new Financing Agreements and, subject to this, those obligations of this Agreement which relate to the Financing Parties shall also bind the Purchaser with respect to any substitute lenders.

20. PRIVATISATION ASSURANCES

20.1 **Privatisation Assurances:** In the event that, prior to EU Accession, a NEK Privatisation is announced or occurs and such NEK Privatisation results or will result in a real or purported assignment of rights or assumption of obligations under this Agreement or the Project Agreements or does or will have a materially adverse effect on the Project then the Purchaser shall first provide to 3-C Bulgaria either:

(i) a confirmation from the issuing Bulgarian Authority that the Project Support Letter will continue to apply to the Purchaser following the NEK Privatisation (to the extent provided in the Project Support Letter); or

(ii) a confirmation that the Purchaser has obtained an investment grade credit rating with Standard & Poors (being not less than BBB as at the date of this Agreement) or Moody's (being not less than Baa as at the date of this Agreement); or

(iii) other credit support satisfactory to the Financing Parties in respect of the Purchaser's obligations under this Agreement.

21. GUARANTEE AND UNDERTAKING

21.1 **Undertaking to 3-C Parent:** As a separate obligation, the Purchaser undertakes to 3-C Parent that it shall observe and perform its obligations under this Agreement. The liability of the Purchaser to 3-C Parent for a breach of this undertaking shall be the same as its liability to 3-C Bulgaria in respect of the corresponding breach of this Agreement and the satisfaction of either such liability by the Purchaser shall satisfy the Purchaser's liability both to 3-C Bulgaria and 3-C Parent. The Purchaser, in relation to claims by 3-C Parent under this Agreement, shall be entitled to assert the same defences, exclusions, disclaimers and limitations of liability against 3-C Parent as it is entitled to assert under this Agreement against 3-C Bulgaria.

21.2 **Guarantee:** 3-C Parent undertakes to the Purchaser that it shall guarantee the observance and performance of this Agreement by 3-C Bulgaria. The obligations of 3-C Parent under this Clause shall be of no greater amount and no longer duration than the guaranteed obligations of 3-C Bulgaria under this Agreement. 3-C Parent, in relation to claims by the Purchaser under this Agreement, shall be entitled to assert the same defences, exclusions, disclaimers and limitations of liability as 3-C Bulgaria is entitled to assert under this Agreement against the Purchaser.

22. MISCELLANEOUS

22.1 **Successors and Assigns:** Subject to Clause 19, this Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective legal successors and permitted transferees and assigns.

22.2 **No Third Parties:** Except as expressly provided for herein, nothing in this Agreement shall be construed to create any duty, standard of care or liability to, nor confer any right of suit or action on any Person other than the Purchaser, 3-C Bulgaria and 3-C Parent.

22.3 **No Consequential Damages:** To the extent permitted by the Legal Requirements and save as otherwise set out expressly in this Agreement, no Party shall be liable to any other Party for:

(a) damages in respect of loss of contracts, losses arising out of any of the other Project Agreements, loss of power or production, the costs of purchased or replacement power or production, claims of customers for loss of power or production, loss of use, loss of capital, loss of business reputation or opportunity, increased expense of use of equipment or plant, loss of anticipated profits or revenue and/or loss of business; or

(b) damages, costs or expenses in respect of any incidental, indirect or consequential losses or any special, punitive or exemplary damages;

which are the consequence of any act, omission or neglect by that Party (including any Person engaged by it in the performance of its obligations under this Agreement) and which arise during and/or as a result of the performance or non-performance of this Agreement (regardless of the cause thereof including the negligence or Wilful Misconduct of the Party seeking to rely on this provision).

22.4 **Survival:** Expiration or termination of all or any part of this Agreement shall not relieve a Party of any liability under this Agreement that is outstanding at such date or of any obligation that by its nature should survive such expiration or termination (including Clause 22.6) and shall not affect the rights and remedies of any Party in respect of any breach of this Agreement by another Party prior to such expiration or termination and the obligations of a Party shall survive any privatisation, restructuring or other reorganisation of that Party.

22.5 **Notices:** Any notice or other communication to be given shall be in writing and shall be sufficiently given if:

(a) sent by pre-paid mail;

(b) hand-presented against written receipt; or

(c) transmitted and clearly received by facsimile:

(i) in the case of 3-C Bulgaria and 3-C Parent, to:

Address:

Attention:
Facsimile No:

with a copy to:

Address:

Attention:
Facsimile No:

(ii) in the case of the Purchaser, to:

Address:

Attention:
Facsimile No:

or sent to such other address, recipient or facsimile number as a Party may designate for itself by notice given in accordance with this Clause 22.5. Any and all notices hereunder shall be deemed to have been received on the date of delivery subject, if sent by facsimile, to:

(1) confirmation of uninterrupted transmission by a transmission report; and

(2) there having been no telephonic communication by the recipient to the sender (any such telephonic communication to be confirmed in writing) that the facsimile has not been received in legible form:

(i) within 3 hours after sending, if sent on a Business Day between the hours of 9:00 a.m. and 4:00 p.m. (Bulgarian time); or

(ii) by noon on the next following Business Day if sent after 4:00 p.m. (Bulgarian time) on a Business Day but before 9:00 a.m. (Bulgarian time) on the next following Business Day;

provided, that any notice given by fax shall be confirmed by letter sent by hand or post, but without prejudice to the original fax notice if received in accordance with this Clause 22.5

22.6 **Confidentiality:**

(a) Each Party agrees that it will, and will ensure that each of its Affiliates and their respective employees, officers and directors will, and will make reasonable efforts to ensure that each of their respective contractors and agents will, hold in confidence all information, documentation, data or know-how disclosed to it, whether before or after the Effective Date by any other Party (**"Confidential Information"**) and will not disclose to any third party or use Confidential Information or any part thereof without such other Party's prior written approval provided, however, that Confidential Information may be disclosed:

(i) to a Bulgarian Authority pursuant to Legal Requirements or to any similar entity in any other jurisdiction under the laws of that jurisdiction;

(ii) to financial institutions, bona fide potential purchasers, legal counsel, consultants and contractors employed in connection with the Project whose duties reasonably require such disclosure, provided that, with respect to disclosures pursuant to this sub-Clause (a)(ii), the other party shall first have agreed not to disclose the relevant Confidential Information to any other Person for any purposes whatsoever, except as provided for under sub-Clause (a)(i);

(iii) to the extent necessary to enable any Party or its Affiliate or any Person referred to in Clause 22.6(a)(ii) to comply with its obligations arising under the laws of any jurisdiction;

(iv) under the rules of any recognised securities exchange to which any Party or their Affiliates is subject.

(b) The restrictions in this Clause 22.6 shall not apply or shall cease to apply to any part of the Confidential Information that:

(i) is in the public domain other than by reason of a breach of Clause 22.6(a);

(ii) was in the rightful possession of the recipient Person or an employee, officer, shareholder or director of the recipient Person at or prior to the time of the disclosure; or

(iii) was obtained by the recipient Person in good faith from a third party entitled to disclose it.

22.7 **Severability of Provisions:** A holding of any court of competent jurisdiction or by an arbitral tribunal under Clause 18 that any provision of this Agreement is invalid or unenforceable shall not result in invalidation of the entire Agreement. Instead, this Agreement shall be construed to the extent possible and in such a manner as to give full effect by means of valid provisions to the intent of the Parties in respect of the particular provision held to be invalid and, in any event, all other terms shall remain in full force and effect, to the extent provided under this Agreement. Following any such holding, the Parties shall negotiate new provisions to restore, to the extent possible, the original intent and effect of this Agreement.

22.8 **Waiver in General:** None of the Parties shall be deemed to have waived any right under this Agreement unless such Party shall have delivered to the other Parties a written waiver signed by an authorised officer of such waiving Party. No delay or omission in the exercise of any power or remedy shall be construed to be a waiver of any default or an acquiescence therein, with the exception of:

(a) any notice provision under this Agreement (except to the extent specified in Clause 13.6(b)); and

(b) save as otherwise expressly provided for in this Agreement.

22.9 **Waiver of Sovereign Immunity**: With respect to this Agreement and the Complex, the Purchaser hereby unconditionally and irrevocably:

(a) agrees that the execution and performance by it of this Agreement constitute private and commercial acts;

(b) agrees that no immunity from any proceedings brought against it or its assets will be claimed; and

(c) waives any right of immunity which it or its assets now have or may acquire in the future in any jurisdiction and to the fullest extent permitted by applicable Legal Requirements.

22.10 **Amendment**: This Agreement may only be amended or modified by a written instrument signed by each of the Parties.

22.11 **Entire Agreement**:

(a) Subject only to Clause 22.11(c), this Agreement sets out the entire agreement and understanding between the Parties concerning all relevant matters and all previous documents, drafts of documents, undertakings and agreements, whether verbal, written or otherwise, between the Parties concerning relevant matters are hereby cancelled and annulled and shall not affect or modify any of the terms or obligations set forth in or be used in the interpretation of, this Agreement.

(b) Subject only to Clause 22.11(c), no Party shall, as against any other Party, have any right (whether to damages, rescission, rectification or otherwise) arising in respect of any representation or statement, except the representations and warranties set out in Clause 17.1, which may have been made by or on behalf of any other Party about any relevant matter before or at the time that this Agreement was entered into. This applies even to negligent statements, but not to a statement shown to have been dishonest. A "**relevant matter**" is any matter referred to in this Agreement or any other matter which is in any way, whether directly or indirectly, connected with or relevant to such a matter (including, but not limited to, any term sheet or memorandum of understanding).

(c) This Clause 22.11 shall not apply to the Energy Conversion Contract prior to the Effective Date.

22.12 **Further Acts and Assurances**: Each of the Parties agrees to execute and deliver all documents, papers and instruments and to do and perform all such further acts and

things, as shall be necessary or convenient to carry out the provisions of this Agreement.

22.13 **Expenses**: 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, preparation, execution, delivery, performance of and compliance with this Agreement, save as otherwise expressly provided for herein.

22.14 **Choice of Language**: this Agreement shall be negotiated and executed in the English language and shall be translated into Bulgarian as soon as practicable after execution provided, however, that if there is a Dispute regarding the terms of this Agreement the English language version shall govern.

22.15 **Relationship of Parties**: The duties, obligations and liabilities of the Parties under this Agreement are several and not joint or collective. Nothing contained in this Agreement shall ever be construed so as to create an association, trust, partnership or joint venture between the Parties and neither 3-C Bulgaria nor 3-C Parent nor the Purchaser shall be deemed to be a principal or agent of the other (except to the extent specifically provided in this Agreement) and each of the Parties shall be individually and severally liable for its own obligations under this Agreement (except to the extent specifically provided in this Agreement).

22.16 **Indexation**:

(a) If for any reasons any index referred to in this Agreement (each an "**Index**") ceases to be published, is withdrawn or becomes unavailable for any reason or becomes, in the reasonable opinion of either the Purchaser or 3-C Bulgaria, inappropriate or inaccurate as a basis for indexation pursuant to this Agreement then, upon written notice from any Party, the Purchaser and 3-C Bulgaria shall use their reasonable efforts to identify a mutually acceptable alternative index.

(b) If, after fourteen (14) Days the Parties are unable to agree on an alternative index to be substituted for the index that requires replacement pursuant to this Clause, the Parties shall appoint an Expert pursuant to Clause 18.12 who may nominate an index that in his sole opinion most adequately replaces the withdrawn, unavailable, or inappropriate index within fourteen (14) Days after his appointment. The Expert shall also determine whether any retroactive adjustment is needed hereunder because of the unavailability, inaccuracy or inappropriateness of a replaced Index.

(c) Subject to sub-Clause 22.16(d), the Parties shall thereafter be bound by the determination of the Expert as to the alternative index.

(d) For so long as any alternative index requires the approval of the Regulator, the use of such index shall be conditional upon the Parties receiving the approval of the Regulator. Each Party agrees at the request of any other Party to co-operate to the fullest extent in submitting any request for approval to the Regulator and in pursuing all reasonably available procedures for appealing

against and challenging the grounds for any decision in respect thereof by the Regulator.

22.17 **Governing Law**: this Agreement shall be governed by and construed in accordance with the laws of Bulgaria.

IN WITNESS WHEREOF, each of NEK and 3-C Mauritius has caused this Agreement to be executed in duplicate originals, each of which shall be deemed to be an original as of the date first above written.

SIGNED by Danail Tafrov, Executive Director)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by Richard Mardon, Executive Director)
duly authorised for and on behalf of)
CONSOLIDATED CONTINENTAL COMMERCE LIMITED)

APPENDICES

A. TARIFF, ANCILLARY SERVICES PAYMENTS, SYSTEM CHARGES AND REIMBURSEMENTS

B. PROJECT DESCRIPTION AND DESIGN CONDITIONS

C. TECHNICAL LIMITS

D. PROJECT SCHEDULE

E. INTERCONNECTION POINTS, ELECTRICAL INTERCONNECTION FACILITIES AND CONSTRUCTION INTERFACES

F. PERFORMANCE TESTING

G. OPERATING PROCEDURES

H. SITE DESCRIPTION

I. COMPLEX TRANSFER PROCEDURES

J. GOVERNMENTAL APPROVALS

K. MEASUREMENT AND TESTING PROCEDURES

L. CONSTRUCTION AND COMMISSIONING OF THE INTERCONNECTION FACILITIES

M. TAX ASSUMPTIONS

N. FORM OF DEVELOPMENT PERFORMANCE GUARANTEE

O. FORM OF CONSTRUCTION PERFORMANCE GUARANTEE

P. FORM OF TRANSFER SECURITY

Q. FORM OF ACCESSION UNDERTAKING

R. DIAGRAMS AND PLANS

S. PROJECT SUPPORT LETTER

T. PROFORMA FINANCIAL MODEL

APPENDIX A
TARIFF, ANCILLARY SERVICES PAYMENTS, SYSTEM CHARGES AND REIMBURSEMENTS

1. CAPACITY PAYMENT CALCULATION

The Capacity Payment, CP_{IPm}, in respect of an Invoicing Period ending on or after the Date of Commercial Operation during any Month "**m**" (in Euros), is determined as follows:

$$CP_{IPm} = CP_{IPm} \text{ for Unit-1} + CP_{IPm} \text{ for Unit 2}$$

where

$$CP_{IPm} = \sum_{i=1}^{i=n} \{(FCP_m * (AC_i - TPC_i)\}$$

where:

AC_i is "**Available Capacity**"(in MW) for Availability Period "i", determined on the following basis:

(i) If Declared Capacity ≤ Available Contracted Capacity then:

(1) $AC_i = DC_i$ when $AAC_i = D_sC_i$
(2) $AC_i = DC_i$ when $AAC_i > D_sC_i$
(3) $AC_i = AAC_i$ when $AAC_i < D_sC_i$

(ii) If Declared Capacity > Available Contracted Capacity

(1) $AC_i = D_sC_i$ when $AAC_i \geq D_sC_i$ and $D_sC_i \geq ACC_i$
(2) $AC_i = ACC_i$ when $AAC_i \geq D_sC_i$ and $D_sC_i < ACC_i$
(3) $AC_i = AAC_i$ when $AAC_i < D_sC_i$

where: AAC_i is the Actual Available Capacity for Availability Period **i**
ACC_i is the Available Contracted Capacity for Availability Period **i**
DC_i is the Declared Capacity for Availability Period **i**
D_sC_i is the Dispatched Capacity for Availability Period **i**

subject to the following qualifications:

(1) **Tolerance:** if the Actual Available Capacity is within ± two per cent (± 2%) of the Dispatched Capacity then the Actual Available Capacity shall be deemed to be equal to the Dispatched Capacity;

(2) **Purchaser Related Event:** if the Available Contracted Capacity or the Actual Available Capacity are reduced as a result of a Purchaser Related Event, then the amount of the Declared Capacity, the Available Contracted Capacity or the Actual Available Capacity (as the case may be) shall be deemed to be increased

by an amount equal to such reduction for all Availability Periods during which such reductions occur or are continuing;

(3) **Scheduled Outages:**

(I) during a Scheduled Outage a Unit is deemed to be Unavailable;

(II) if either:

(a) the planned duration of the Scheduled Outages for any Calendar Year is shorter than the Contracted Annual Scheduled Outage Allowance for that Calendar Year; or

(b) the actual duration of a Scheduled Outage is shorter than the planned duration of that Scheduled Outage; or

(c) if a Scheduled Outage is interrupted before its conclusion at the request of 3-C Bulgaria;

then the Purchaser shall not be obliged to purchase the resulting surplus Capacity, if this is offered by 3-C Bulgaria, except in the case of (b) if such curtailment is at the request of the Purchaser or the System Operator (when the Purchaser shall be deemed to have agreed to purchase such surplus Capacity). If the Purchaser agrees to purchase any of such surplus Capacity then, in respect of the relevant additional Availability Periods ACC_i shall equal the amount of such surplus Capacity so purchased for the purposes of determining the related Capacity Payments;

(III) if a Scheduled Outage is interrupted at the request of the Purchaser or the System Operator then in respect of each additional Availability Period until resumption of the Scheduled Outage:

(i) DC_i shall equal ACC_i;

and

(ii) AAC_i shall equal DsC_i;

and 3-C Bulgaria and the System Operator shall at that time agree upon the Availability and dispatch parameters required in respect of each Unit for the duration of such interruption.

(4) **Shut-Down and Start-Up Cycles:** in respect of Availability Periods occurring in whole or in part before a Shut-Down or after a Start-Up, the Available Capacity, AC_i, shall equal:

(I) the Actual Available Capacity, AAC_i, in the case of a Shut-Down on commencement of or a Start-Up on conclusion of a Scheduled Outage or a Non-Scheduled Outage;

(II) the lesser of Declared Capacity, DC_i, and Available Contracted Capacity, ACC_i, in the case of a Start-Up following the Unit being in Reserve or in the case of a Shut-Down following a Unit going into Reserve;

(5) **Availability Tests:** if Availability Period **i** occurs during an Availability Test, the Available Capacity, AC_i, for that Availability Period shall equal:

(i) in the case of Availability Tests carried out as required under Paragraph 5 of Appendix F, whichever is the lesser of Actual Available Capacity, AAC_i and Available Contracted Capacity, ACC_i;

(ii) in the case of Availability Tests carried out under Paragraph 6 of Appendix F, the Tested Capacity resulting from the relevant test;

(6) **Delayed Testing:** If:

(i) 3-C Bulgaria requests a test under Paragraph 6.1 of Appendix F and this does not occur due to a Purchaser Related Event or an Unusual Event within twenty-four (24) hours of such request, the Tested Capacity shall, in respect of Availability Periods occurring after the expiry of such twenty-four (24) hour period, be deemed to equal the Declared Capacity, DC_i, until such time as the test is actually conducted;

(ii) the Purchaser requests a test under Paragraph 6.1 of Appendix F and this does not occur due to a breach of this Agreement by 3-C Bulgaria within twenty-four (24) hours of such request, the Available Capacity AC_i, shall in respect of Availability Periods occurring after the expiry of such twenty-four (24) hour period, be deemed to equal the Actual Available Capacity, AAC_i, until such time as the test is actually conducted;

(7) **Unusual Events:** during an Unusual Event AC_i shall be determined as described above in this Paragraph 1, except to the extent provided in accordance with Clause 13.8(b) of this Agreement;

(8) **Deemed Commissioning:** during Availability Periods when the Date of Commercial Operation or the Date of Full Commercial Operation is deemed to have occurred Available Capacity, AC_i shall be determined in accordance with Clause 6.5 of this Agreement;

(9) **Purchaser Payment Default**: during Availability Periods occurring while 3-C Bulgaria is selling electricity to third parties in accordance with Clause 10.8 (Payment Security) following default by the Purchaser in paying any Invoice

under this Agreement, Available Capacity, AC_i shall equal Available Contracted Capacity, ACC_i;

(10) **Reserve:** If a Unit is in Reserve and 3-C Bulgaria engages in maintenance on that Unit without informing the System Operator such that there is a reduction in the Capacity of the Unit in Reserve then the Available Capacity, AC_i, during the period from the commencement of such reduction until the first to occur of:

(i) a test of the Capacity of the Unit under Paragraphs 5 or 6 of Appendix F; and

(ii) the next Start-Up of the Unit;

shall be reduced to the extent of the shortfall as shown according to the operational record logs maintained by 3-C Bulgaria in accordance with Appendix G.

(11) **Extreme Temperatures:** if the measured ambient air temperature applicable under this Agreement in respect of any Availability Period is lower than –15°C or higher than +35°C then the Dispatched Capacity, D_SCi in respect of such Availability Period shall, for the purposes of determining the Available Capacity, **ACi**, (and unless 3-C Bulgaria shall otherwise elect by written notice to the System Controller) not exceed the *"Maximum Net Load"* according to correction curve R-5, adjusted to reflect the impact of such temperature extremes.

n is the number of Availability Periods during the relevant Invoicing Period;

FCP_m is the price for AvailableCapacity, AC_i (in Euros/MW) for each Availability Period falling during Month **"m"** determined as follows:

$$FCP_m = (F_{CR} + F_{FCm}) * AP$$

where:

AP is the duration of an Availability Period (being one hour);

F_{CR} is the capital recovery price for availability of Capacity of the Complex,

$$F_{CR} = F_{CR54} * (1.015)^{Yn}$$

F_{CR54} is the capital recovery price for availability of Capacity of the Complex applicable in respect of Invoicing Periods expiring during the fifty-four (54) Months following the Effective Date, being € 32.750/MWh;

Yn equals zero until the expiry of the fifty-fourth (54th) Month following the Effective Date and thereafter is the number of whole Years since the expiry of the forty-second Month after the Effective Date;

provided that F_{CR} shall be adjusted as follows:

(1) **Variation in Cost of Finance:** If, at any time during the Term, the interest rates due under the Financing Agreements to which any Financing Party is a party are different from those contained in the Financial Model in respect of the applicable period, 3-C Bulgaria shall promptly notify the Purchaser and F_{CR54} shall be adjusted:

(I) downwards by an amount equal to fifty per cent (50%) of any incremental benefit derived by 3-C Bulgaria from such financing; or

(ii) upwards by an amount equal to fifty per cent (50%) of the incremental cost of such financing to 3-C Bulgaria;

as the case may be and the Financial Model shall be revised to reflect such adjustments.

(2) **Capital Cost Contingency:** If, at any time during the Term, any of the Capital Cost Contingency is disbursed in respect of incremental Project costs, 3-C Bulgaria shall notify the Purchaser of such disbursement and F_{CR54} shall be adjusted upwards by fifty per cent (50%) of the amount of the Capital Cost Contingency so disbursed, such adjustment to be with effect from the date of such disbursement, and the Financial Model shall be revised to reflect such adjustments.

F_{FCm} is the fixed cost operating price for availability of Capacity of the Complex (in Euros/MWh) for Month **"m"** determined as follows:

$$F_{FCm} = \frac{AFOP_o * I_{O\&M}}{ACAC_t}$$

where:

$AFOP_o$ is the annual fixed operating payment as at 1st January 2000, being eleven million, five hundred and seventy eight thousand Euros (€ 11,578,000);

$I_{O\&M}$ is an escalation index applicable to the Calendar Year in which the relevant Invoicing Period occurs and which equals 1.00 as at 1st January 2000 and thereafter is calculated on an annual basis according to the following formula:

$$I_{O\&M} = (0.8 * I_{Euro} + 0.2 * I_{Bul})$$

where:

I_{Euro} is an escalation index applicable to the Calendar Year in which the relevant Invoicing Period occurs and which is calculated on an annual basis according to the following formula:

$$I_{Euro} = \frac{I_{Euro\,1}}{I_{Euro0}}$$

where:

I_{Euro1} is the Harmonised Producer Price Index published by the Statistical Office of the European Communities as at the start of the Calendar Year in which the Invoicing Period falls; and

I_{Euro0} is the Harmonised Producer Price Index published by the Statistical Office of the European Communities as at 1st January 2000;

I_{Bul} is an escalation index applicable to the Calendar Year in which the relevant Invoicing Period occurs and which is calculated on an annual basis according to the following formula:

$$I_{Bul} = \frac{I_{Bul1}}{I_{Bul0}}$$

where:

I_{Bul1} is the Producer Price Index or (until such time as such index exists) the Consumer Price Index published by the Bulgarian National Statistical Institute as at the start of the Calendar Year in which the Invoicing Period falls; and

I_{Bul0} is the Consumer Price Index published by the Bulgarian National Statistical Institute as at 1st January 2000;

$ACAC_t$ is the Annual Contracted Availability of Capacity for the Complex (in MWh), determined as follows:

$$ACAC_t = \{ACAC_{tu} \text{ for Unit 1} + ACAC_{tu} \text{ for Unit 2}\}$$

where:

$$ACAC_{tu} = CC_{tu} * \{8760 - CASO_{tu}\} * NSOF_{tu}$$

where:

$ACAC_{tu}$ is the Annual Contracted Availability of Capacity for the relevant Unit (in MWh) for Invoicing Periods in Calendar Year t according to Annex A-2;

CC_{tu} is the Contracted Capacity of the relevant Unit during Calendar Year **t**, as adjusted in the Annual Commercial Plan for Calendar Year **t**;

$CASO_{tu}$ is the number of hours of Contracted Annual Scheduled Outage allowance for the relevant Unit for Calendar Year **t** according to Table A-1, as adjusted in the Annual Commercial Plan for Calendar Year **t**, (pro-rating such hours for Year 0 where the Date of Commercial Operation or the Date of Full Commercial Operation, as the case may be, occurs during the course of Calendar Year 0) provided that $CASO_{tu}$ for Year 0 shall be zero if the Availability Periods remaining in Year 0 following the Unit entering into commercial operation number less than 2190;

$NSOF_{tu}$ is the Non-Scheduled Outage Factor applicable to the relevant Unit, being 0.97 provided that:

(1) the Non-Scheduled Outage Factor for Unit 1 shall be reduced to 0.95 for the first fifteen (15) Months following the Date of Commercial Operation; and

(2) the Non-Scheduled Outage Factor for Unit 2 shall be reduced to 0.95 for the first twelve (12) Months following the Date of Full Commercial Operation;

t is a Calendar Year according to Table A-1 with the Calendar Year in which the Date of Commercial Operation or the Date of Full Commercial Operation, as the case may be, occurred being Calendar Year 0;

Calendar Year	Contracted Annual Scheduled Outages (Unit 1)	Contracted Annual Scheduled Outages (Unit 2)
	Hours/Calendar Year	Hours/Calendar Year
0	0 to 480[1]	0 to 480[1]
1	480	480
2	768	768
3	1632	480
4	480	1632
5	768	0
6	0	768
7	2880	480
8	480	2880
9	768	0
10	0	768
11	1632	480
12	480	1632
13	768	0
14	0	768
15	2880	480
16 onwards	Repeating the Calendar Year 8 to Calendar Year 15 cycle	Repeating the Calendar Year 8 to Calendar Year 15 cycle

Table A-1

[1] $CASO_{tu}$ for Year 0 depends on the number of Availability Periods, as specified in the definition of Contracted Annual Scheduled Outage above

The allocation of Contracted Annual Scheduled Outages between the Units shown in Table A-1 is provisional and the final allocation between the Units for each Calendar Year shall be agreed in the Annual Commercial Plan for each Calendar Year.

TPC_i is that part of the Available Capacity which is apportioned to satisfy 3-C Bulgaria's obligations in respect of Third Party Capacity during Availability Period **i** being the greater of zero and $(AC_i - CC_i - SC_i)$ where:

AC_i is the Available Capacity in respect of Availability Period **i**;

CC_i is the Contracted Capacity in respect of Availability Period **i**;

SC_i is the Surplus Capacity in respect of Availability Period **i**.

If, in respect of any Availability Period, the Actual Available Capacity of either Unit shall be less than the Dispatched Capacity for that Unit, the Parties shall cooperate to ensure that any reallocation of auxiliary loads as between Unit 1 and Unit 2 is coordinated with the requirements of the System Operator provided that this shall not result in the aggregate of both Units' Actual Available Capacities exceeding the aggregate of their Dispatched Capacities.

To assist the Parties in understanding the application of this Paragraph 1, a worked example is included (for illustrative purposes only and without being binding on the Parties) in Annex A-1 to this Appendix A.

2. ENERGY PAYMENT CALCULATION

The Energy Payment, **EP**, in Lev, is determined as follows:

$$EP = EP_F + EP_O + EP_W + EP_L + EP_V$$

where

EP_F is the aggregate of (i) plus (in the case of the second Invoicing Period only) (ii) plus (iii) below

(i) in respect of each Invoicing Period ending on or subsequent to the Commissioning Start Date, the amount (in Lev) determined according to the formula $\{EP_F = EP_U \text{ for Unit 1} + EP_U \text{ for Unit 2}\}$ where:

$$EP_U = \sum_{i=1}^{i=n} \{Q_i * P_C * HR_i\}$$

where:

Q_i is the quantity of Net Electrical Energy Output (in kWh) delivered by the relevant Unit to the Purchaser during Availability Period **i**, as measured by the Commercial Metering System in accordance with Clause 8.3(a);

P_C is the price of lignite (in Lev/kJ), determined in accordance with the Lignite Supply Agreement and applicable during the period of the relevant Invoicing Period;

HR_i is the net heat rate (in kJ/kWh) for Availability Period **i**, derived from the correction curves for net heat rates contained in Appendix R and adjusted:

(1) to ambient air temperature and relative humidity from the standard design conditions specified in Annex F-1 in Appendix F;

(2) for Heat Rate degradation over time;

(3) for actual load during Availability Period **i**;

(4) to compensate for variations in condensate make-up water and soot blowing system operation from the standard design conditions specified in Annex F-1 in Appendix F;

(5) to Power Factor from the standard design conditions specified in Annex F-1 in Appendix F;

(6) to Frequency from the standard design conditions specified in Annex F-1 in Appendix F;

provided that:

(a) if both Units are in operation, the relevant correction curves for net heat rates shall be those for which the net heat rate, before any adjustments, is 10322 kJ/kWh if both Units are dispatched at Full Load (based on 300 MW net per Unit) and are sharing auxiliary services;

(b) if one Unit only is in operation, the correction curve for heat rates shall be that for which the net heat rate, before any adjustments, is 10427 kJ/kWh if that Unit is dispatched at Full Load (based on 300 MW net per Unit);

n is the number of Availability Periods in the relevant Invoicing Period during which Capacity was dispatched, in whole or in part, by the Purchaser; and

(ii) in respect of the second Invoicing Period of each Month ending on or subsequent to the Date of Commercial Operations only, the amount (in Lev) determined according to the formula $\{EF * (Q_M - Q_A)\}$ where:

EF is an energy fee (in Lev/kWh) equal to $(P_c * HR_{ToP})$ where P_c is determined in accordance with (i) above and HR_{ToP} is a net heat rate of 10322 kJ/kWh;

Q_M is the Minimum Monthly Quantity for the relevant Month (in MWh)

Q_A is equal to the lesser of Q_M and the total Net Electrical Energy Output delivered by the Complex during the relevant Month; and

(iii) in the case of lignite combusted by the Units during Shut-Down and Start-Up Cycles contracted for in accordance with Paragraph 1(a) of Appendix C or otherwise requested by the Purchaser, the amount (in Lev) equal to the product of P_C (under (i) above) and the permitted energy consumption allowance for each Start-Up as follows:

Type of Start-Up	Allowance
Cold Starts:	1900 GJ/Start-Up
Warm Starts:	1100 GJ/Start-Up
Hot Starts:	1000 GJ/Start-Up

EP_O is, in respect of Invoicing Periods ending on or subsequent to the Commissioning Start Date, the cost to 3-C Bulgaria of liquid Fuels used by 3-C Bulgaria during the relevant Invoicing Period (in Lev), determined as follows:

(i) in the case of liquid Fuel combusted for flame support during operation ordered by the System Operator below the Unit Minimum Load for a Unit, the cost shall be $\{Q_o * P_o\}$ where Q_o is the quantity of liquid Fuels so combusted (in GJ) according to the records maintained by 3-C Bulgaria in accordance with this Agreement and P_o is the price of such liquid Fuel (in Lev/GJ) according to the relevant Fuel Supply Agreement including costs for storage in and delivery from the facilities which are due to the operator of such facilities, evidenced by invoices received by 3-C Bulgaria and to be included as an attachment to each Invoice,

(ii) in the case of liquid Fuel combusted by the Units during Shut-Down and Start-Up Cycles contracted for in accordance with Paragraph 1(a) of Appendix C or otherwise requested by the Purchaser or the System Operator, the cost shall be the product of P_o (under (i) above) and the permitted energy consumption allowance for each Start-Up as follows:

Type of Start-Up	Type of Fuel	Permitted Energy Consumption Allowance
Cold Starts:	Heavy Fuel Oil Diesel Oil	2100 GJ/Start-Up 350 GJ/Start-Up
Warm Starts:	Heavy Fuel Oil	1450 GJ/Start-Up
Hot Starts:	Heavy Fuel Oil	620 GJ/Start-Up

Such costs for liquid Fuels shall be separate from and in addition to any Ancillary Service payments in respect of Excess Shut-Down and Start-Up Cycles due under Paragraph 3 of this Appendix A

provided that:

(1) liquid Fuels combusted to burn lignite of a quality that is not within the mandatory quality parameter range contained in the Lignite Supply Agreement shall be excluded from the above calculations and the cost thereof shall be borne by 3-C Bulgaria; and

(2) the cost of liquid Fuel for Start-Ups due to Non-Scheduled-Outages requested or caused by 3-C Bulgaria shall be borne by 3-C Bulgaria;

EP_W is the aggregate of:

(i) in respect of Invoicing Periods ending on or subsequent to the Commissioning Start Date, the amount (in Lev) determined according to the formula $(P_W * Q_W)$ where:

P_W is the average price of waste disposal services (in Lev/tonne), determined in accordance with the Waste Disposal Agreement(s);

Q_W is the aggregate quantity of waste (in tonnes) produced by the Complex during the relevant Invoicing Period;

and

(ii) in respect of the second Invoicing Period of each Month ending on or subsequent to the Date of Commercial Operations, the amount (in Lev) determined according to the formula $\{AC_W * (Q_M - Q_A)\}$ where:

Q_M and Q_A have the meanings defined above under EP_F; and

AC_W is the average cost for waste disposed of under the Waste Disposal Agreement(s) (in Lev/kWh) for the Month during which the relevant Invoicing Period occurs, determined as follows:

$$AC_W = \frac{P_W * (Q_{W1} + Q_{W2})}{Q_A}$$

where: P_W is as defined in (i) above and Q_A is as defined in EP_F above;

Q_{W1} is Q_W under (i) above in respect of the first Invoicing Period for the relevant Month; and

Q_{W2} is Q_W under (i) above in respect of the second Invoicing Period for the relevant Month;

provided that if, in respect of both Invoicing Periods during the relevant Month, no Net Electrical Energy Output is dispatched, the above formula shall be based on the figures for Q_{W1}, Q_{W2} and Q_A for the most recent Month in respect of which any Net Electrical Energy Output was dispatched.

EP_L is the aggregate of:

(i) in respect of Invoicing Periods ending subsequent to the Commissioning Start Date, the amount (in Lev), determined according to the formula: $(P_L * Q_L)$ where:

P_L is the average price of limestone (in Lev/tonne), determined in accordance with the Limestone Supply Agreement(s);

Q_L is the quantity of limestone consumed by the Complex during the relevant Invoicing Period, not to exceed {Q_{Lu} **for Unit 1** + Q_{Lu} **for Unit 2**} where:

$$Q_{Lu} = \sum_{i=1}^{i=n} \{HR_i * Q_i * LCR_i\}$$

where HR_i, Q_i and n are as defined under EP_F above and LCR_i is a limestone conversion rate of $23.13*10^{-9}$ tonnes/kJ (while burning lignite having a lower heating value of 1200 kcal/kg and a sulphur level of 3.2%) applicable to Availability Period i;

and

(ii) in respect of the second Invoicing Period of each Month ending on or subsequent to the Date of Commercial Operations, the amount (in Lev) determined according to the formula {AC_L * ($Q_M - Q_A$)} where:

Q_M and Q_A have the meanings defined above under EP_F; and

AC_L is the average cost of limestone supplied under the Limestone Supply Agreement(s) (in Lev/kWh) for the Month during which the relevant Invoicing Period occurs, determined as follows:

$$AC_L = \frac{P_L * (Q_{L1} + Q_{L2})}{Q_A}$$

where: P_L is as defined in (i) above and Q_A is as defined in EP_F above;

Q_{L1} is Q_L under (i) above in respect of the first Invoicing Period for the relevant Month; and

Q_{L2} is Q_L under (i) above in respect of the second Invoicing Period for the relevant Month;

provided that if, in respect of both Invoicing Periods during the relevant Month, no Net Electrical Energy Output is dispatched, the above formula shall be based on the figures for Q_{L1}, Q_{L2} and Q_L for the most recent Month in respect of which any Net Electrical Energy Output was dispatched.

EP_V is, in respect of Invoicing Periods ending on or subsequent to the Commissioning Start Date, the amount (in Lev) determined according to the formula {$EP_V = P_v * I_{Bul} * Q_F$} where:

P_v is the variable cost of generation not included in EP_F, EP_O, EP_W or EP_L equal to 0.0033120 Lev/kWh as at 1st January 2000 in respect of variable operating and maintenance costs of 3-C Bulgaria and adjustments to take account of those elements in the actual variable cost of generation which do not get a tax deduction, which amount may be reviewed by the Regulator on the fifth and tenth anniversaries of the Date of Commercial Operation provided that on the

occasion of each such review such variable costs may not be increased or decreased by more than 2.5% of such variable costs in respect of the previous Calendar Year;

I_{Bul} is an escalation index applicable to the Calendar Year in which the relevant Invoicing Period occurs and which is calculated on an annual basis according to the following formula:

$$I_{Bul} = \frac{I_{Bull}}{I_{Bul0}}$$

Where I_{Bull} is the Consumer Price Index published by the Bulgarian National Statistical Institute as at the start of the Calendar Year in which the Invoicing Period falls and I_{Bul0} is the Consumer Price Index published by the Bulgarian National Statistical Institute as at 1st January 2000;

Q_F is the quantity of Net Electrical Energy Output delivered in the relevant Invoicing Period.

3. ANCILLARY SERVICES PAYMENTS

Having regard to the provisions of Clause 10.9 (Regulation):

3.1 In this Paragraph 3. the following terms shall have the following meanings:

"Excess Shut Down and Start-Up Cycle": any Shut-Down and Start-Up ordered by the System Operator during any Calendar Year in excess of contracted Shut-Down and Start-Up Cycles according to Appendix B, as more particularly described in Paragraph 1(a) of Appendix C;

"Primary Control": the meaning defined in Paragraph 7.2(a)(i) of Appendix G;

"Secondary Control": the meaning defined in Paragraph 7.2(b)(i) of Appendix G;

3.2 The Purchaser shall pay 3-C Bulgaria for each Availability Period of compliant participation of a Unit in Primary Control (in accordance with Paragraph 7.2(a)(ii) of Appendix G) an amount equal to 2 Lev/MWh multiplied by the agreed Primary Control Range of the Unit.

3.3 The Purchaser shall pay 3-C Bulgaria 1.12 Lev/MWh multiplied by the Operating Range for Secondary Control for each Availability Period of compliant participation of a Unit in Secondary Control (in accordance with Paragraph 7.2(b)(ii) of Appendix G).

3.4 The Purchaser shall pay 3-C Bulgaria for Excess Shut-Down and Start-Up Cycles as follows:

Type of Start-Up	Payment
Cold Starts:	Lev 31500/Start-Up plus the cost of Start-Up electricity incurred by 3-C Bulgaria
Warm Starts:	Lev 15500/Start-Up plus the cost of Start-Up electricity incurred by 3-C Bulgaria
Hot Starts:	Lev 8500/Start-Up plus the cost of Start-Up electricity incurred by 3-C Bulgaria

each escalated by I_{RoI} (as specified under Paragraph 2 above) for Calendar Years subsequent to 1 January 2000.

4. CALCULATION OF SYSTEM CHARGES

4.1 In this Paragraph 4.1 the following terms shall have the following meanings:

"Capacity Price": means FCP_m as specified in Paragraph 1 above (in Euros/MW);

"Energy Price": means a price (in Lev/kWh) equal to the aggregate of the Energy Payments invoiced by 3-C Bulgaria for the relevant Month divided by the greater of (i) the Net Electrical Energy Output delivered during that Month and (ii) the Minimum Monthly Quantity for that Month;

"Primary Control" and **"Primary Control Range"**: the meanings defined in Paragraph 7.2(a)(i) of Appendix G;

"Reactive Power": the electrical energy generated and supplied by the generators within a definite time interval, capable of maintaining a definite voltage and electromagnetic field, measured in Megavarhours (MVArh) and its derivative units;

"Reactive Power Deviations": means the sum of the differences across a specified period between the Reactive Power (as actually measured) and the Reactive Power required to regulate the voltage in line with voltage schedules on the high voltage side of the step-up transformer, as set by the Purchaser in accordance with the parameters contained in Table G-3 in Appendix G.

"Secondary Control" and **"Secondary Control Range"**: the meanings defined in Paragraph 7.2(b)(i) of Appendix G;

4.2 3-C Bulgaria shall be liable to the Purchaser for System Charges for each Availability Period determined as follows:

(a) In the case of a reduction of Capacity occurring while a Unit is scheduled to be in Reserve and which reduces the required system-level reserve, the System

Charge shall be the product of the shortfall in Capacity (in MW) during the relevant Availability Period (being the difference between Contracted Capacity and the Declared Capacity during the Availability Period, assuming Declared Capacity to be less than Contracted Capacity) multiplied by Z% (as defined below) of the Capacity Price provided that where 3-C Bulgaria has given the Purchaser less than 8 hours' notice prior to the start of the reduction of Capacity, the amount of the System Charge under this Paragraph 4.2(a) shall be doubled for each hour of the reduction of Capacity for which less than 8 hours' prior notice was given.

(b) In the case of a reduction of Capacity occurring while a Unit is synchronised with the Grid System, the System Charge shall be the aggregate of:

(i) the product of the resulting shortfall in Capacity (in MW) during the relevant Availability Period (such shortfall being the difference between Contracted Capacity and the lesser of Actual Available Capacity or Declared Capacity) multiplied by Z% of the Capacity Price; and

(ii) the product of Z% of the Energy Price and the resulting shortfall in Net Electrical Energy Output during the relevant Availability Period such shortfall being the difference (based on absolute deviation values) between:

(i) (where a Unit is under local control) the Net Electrical Energy Output scheduled for the relevant Availability Period according to the Generation Schedule (as defined in Paragraph 1 of Appendix G); or

(ii) (where a Unit is under remote control) the Net Electrical Energy Output required for the relevant Availability Period according to Dispatch Instructions;

and the delivered Net Electrical Energy Output;

provided that where 3-C Bulgaria has given the Purchaser less than 8 hours' notice prior to the start of the reduction of Capacity, the amount of the System Charge under this Paragraph 4.2(b) shall be doubled for each hour of the reduction of Capacity for which less than 8 hours' prior notice was given.

(c) If, during any hour in which a Unit is scheduled to be Available according to the planning procedures in Paragraphs 4 and 5 of Appendix G, that Unit is in a Forced Outage, the System Charge shall be Z% of the Contracted Capacity provided that where 3-C Bulgaria has given the Purchaser less than 8 hours' notice prior to the start of the Forced Outage, the amount of the System Charge under this Paragraph 4.2(c) shall be doubled for each hour of such Forced Outage for which less than 8 hours' prior notice was given.

For each continuous reduction under (a) or (b) above, Z% shall be 15% for the first two hundred consecutive hours in which there is any shortfall under (a) or (b) and

thereafter Z% shall be 3%. For each individual Forced Outage, Z% shall be 15% for the first one hundred consecutive hours in which the Unit was not Available and thereafter Z% shall be 3% until such time as 3-C Bulgaria elects to de-rate the relevant Unit under Clause 7.3.

4.3 Except to the extent this has already been addressed under Paragraph 4.2, in the case of deviations (without the authorisation of the System Operator) of Actual Available Capacity from Dispatched Capacity in excess of ± 2%, the System Charge shall be the aggregate of

(a) the product of:

(i) the average of the absolute deviations of Actual Available Capacity (based on absolute deviation values) from Dispatched Capacity across the course of the relevant Availability Period (in MW); and

(ii) 40% of the Capacity Price; and

(b) the product of 40% of the Energy Price and the amount of Net Electrical Energy Output under- or over-delivered during the relevant Availability Period as a result of the deviations under Paragraph 4.3(a) provided that the amount of the under-delivery or over-delivery of Net Electrical Energy Output shall be the absolute value of the difference between the delivered Net Electrical Energy Output and:

(i) (where a Unit is under local control) the Net Electrical Energy Output scheduled for the relevant Availability Period according to the Generation Schedule (as defined in Paragraph 1 of Appendix G); or

(ii) (where a Unit is under remote control) the Net Electrical Energy Output required for the relevant Availability Period according to Dispatch Instructions;

4.4 If a Unit is participating in Primary Control, 3-C Bulgaria shall pay the Purchaser a System Charge on the occasion of each deviation of a Unit from the Primary Control requirements of Paragraph 7.2(a)(ii) of Appendix G. Such System Charge shall be a single payment per deviation amounting to 50% of the payments received by 3-C Bulgaria under Paragraph 3.2 above in respect of compliant participation of the Unit in Primary Control during the period since the most recent to occur of:

(a) the most recent test of Primary Control Range compliance; and

(b) the most recent occasion on which the Unit participated in Primary Control without deviation; and

(c) the most recent deviation of the Unit from the Primary Control Range.

4.5 If a Unit is participating in Secondary Control, 3-C Bulgaria shall pay the Purchaser a System Charge on the occasion of each deviation of that Unit, limited to one deviation

per Availability Period, from the Secondary Control Range requirements of Paragraph 7.2(b)(ii) of Appendix G. Such System Charge shall be the product of the Secondary Control Range and 50% of the price for compliant participation of the Unit in Secondary Control applicable under Paragraph 3.3 of this Appendix A in respect of the relevant Availability Period.

4.6 3-C Bulgaria shall pay the Purchaser a System Charge for the duration of the failure by 3-C Bulgaria to comply with Dispatch Instructions where this results in a voltage schedule deviation of more than ± 2 kV from scheduled voltage (400 kV) (as recorded by the SCADA system). Such System Charge shall be the product of the Reactive Power Deviations during the period of such non-compliance multiplied by 15% of the Energy Price

4.7 The levying of any System Charges on 3-C Bulgaria in accordance with the provisions of this Paragraph 4 shall only occur if the Grid System cannot, in the sole opinion of the System Operator, accommodate the relevant event and shall not, in any case, be levied to the extent that the relevant event or occurrence occurred:

(a) as a result of a Purchaser Related Event or an Unusual Event or any act or omission of the System Operator (including Dispatch Instructions given by the System Operator when the Complex is under remote control); or

(b) during the period of Reliability Establishment; or

(c) during which a Start-Up occurs or is continuing; or

(d) during a Scheduled Outage or a Maintenance Outage; or

(e) during an Availability Test; or

(f) during an Availability Period occurring more than twenty-four (24) hours after 3-C Bulgaria has requested a test under Paragraph 6.1 of Appendix F but where such test has yet to occur for any reason (including an Unusual Event); or

(g) during an Unusual Event; or

(h) during periods when the Date of Commercial Operation or the Date of Full Commercial Operation is deemed to have occurred in accordance with Clause 6.5 of this Agreement; or

(i) during Availability Periods occurring while 3-C Bulgaria is selling electricity to third parties in accordance with Clause 10.8 following default by the Purchaser in paying any Invoice under this Agreement; or

is otherwise authorised by the System Operator.

5. REIMBURSEMENTS

The Purchaser shall be liable to 3-C Bulgaria for reimbursement of excessive operational costs incurred by 3-C Bulgaria respect of each Invoicing Period ("**Reimbursements**"), determined as follows:

5.1 The Purchaser shall be liable up to the amount of the additional costs (if any) which are not reimbursed through the Energy Payment and which are incurred by 3-C Bulgaria as a result the failure of the Purchaser to purchase the agreed amount of Net Electrical Energy Output due to operational restrictions in the Grid System.

5.2 If 3-C Bulgaria reschedules or curtails its programme of Scheduled Outages at the request of the System Operator, 3-C Bulgaria shall be entitled to a premium in addition to the Capacity Payment that would be due to 3-C Bulgaria in respect of the resultant increase in Declared Capacity, such premium to be agreed between 3-C Bulgaria and the System Operator at the time.

5.3 If, the Actual Available Capacity of a Unit, at the request of the System Operator - is less than the Unit Minimum Load, 3-C Bulgaria shall receive a Reimbursement equal to the additional variable costs of generating the Net Electrical Energy Output dispatched at such load which are not recovered though the Energy Payment, excluding for the avoidance of doubt liquid Fuel costs (which will be recovered through the Energy Payment).

5.4 The Purchaser shall not be entitled to issue a Dispatch Instruction which would cause a Unit to operate below the Unit Minimum Load or above the Declared Capacity without 3-C Bulgaria's prior written consent. In case a Dispatch Instruction would cause a Unit to operate outside of such load range (without 3-C Bulgaria's prior written consent), 3-C Bulgaria shall be unilaterally entitled to switch such Unit to local control without System Charges and during any such Availability Period the Unit shall be deemed to have an Available Capacity equal to its Available Contracted Capacity.

5.5 If the Purchaser requests the Unit to run in "by-pass" mode 3-C Bulgaria shall be reimbursed in respect of its operational and Fuel costs during such period.

5.6 Each Calendar Year 3-C Bulgaria shall have an allowance for Non-Scheduled Outages in respect of which it shall not be liable for System Charges and in so far as such allowance has not been fully utilised 3-C Bulgaria shall be reimbursed by the Purchaser on the following basis within thirty (30) Days of the end of such Calendar Year:

(i) if $AO_t \geq AA_t$ then the reimbursement is:

(1) $(AA_t - AONC_t) * ASC_t$ when $AONC_t < AA_t$

(2) zero (0) when $AONC_t \geq AA_t$

(ii) if $AO_t < AA_t$ then the reimbursement is:

(1) $AOCt * ASC_t$ when $AOCt > 0$

(2) zero (0) when $AOC_t = 0$

where

AA_t is the number of hours of annual allowance for Non-Scheduled Outages for Calendar Year t, where $AA_t = (8760 - CASO_t) * NSOF_t$

AO_t is the number of hours of actual annual Non-Scheduled Outage in Calendar Year t, where $AO_t = AOC_t + AONC_t$

AOC_t is the number of annual hours of Non-Scheduled Outage that did not result in System Charges in Calendar Year t

$AONC_t$ is the number of hours of Non-Scheduled Outages that resulted in System Charges in Calendar Year t

ASC_t is the sum of the annual System Charges in Calendar Year t divided by AO_t

6. VALUE ADDED TAX

All prices and costs referred to in this Appendix shall be exclusive of Value Added Tax.

ANNEX A-1: WORKED EXAMPLE OF CAPACITY PAYMENT CALCULATION

Case	Available Contracted Capacity (ACC)	Declared Capacity (DC)	Dispatched Capacity (DsC)	Actual Available Capacity (AAC)	Available Capacity (ACi)	Capacity Payment (CP_{tPm})	Availability subject to System Charges[2]	Dispatch System Charges[2,3]
	MW	MW	MW	MW	MW	€	MW	
1a	300	300	300	307	300	300*FCPm	No	(307-300)
1b	300	300	300	300	300	300*FCPm	No	No
1c	300	300	300	290	290	290*FCPm	(300-290)	(300-290)
2a	300	300	240	250	300	300*FCPm	No	(250-240)
2b	300	300	240	240	300	300*FCPm	No	(240-230)
2c	300	260	240	230	230	230*FCPm	(300-230)	(270-260)
3a	300	260	260	270	260	260*FCPm	(300-260)	(300-260)
3b	300	260	260	260	260	260*FCPm	(300-260)	(260-250)
3c	300	260	240	250	250	250*FCPm	(300-250)	(250-240)
4a	300	260	240	240	260	260*FCPm	(300-260)	(240-230)
4b	300	260	240	230	230	230*FCPm	(300-230)	No
4c	300	302	302	303	302	FCPm*(302-DF*(302-300))	No	No
5a	300	302	302	302	302	FCPm*(302-DF*(302-300))	No	No
5b	300	302	302	300	300	FCPm*(300-DF*(300-300))	No	(302-290)
5c	300	302	300	290	290	290*FCPm	(300-290)	No
5d	300	300	300	303	300	FCPm*(300-DF*(300-300))	No	No
6a	300	302	300	300	300	FCPm*(300-DF*(300-300))	No	(300-290)
6b	300	302	300	290	290	290*FCPm	(300-290)	(280-270)
6c	300	302	270	280	300	300*FCPm	No	No
7a	300	302	270	270	300	300*FCPm	No	(270-260)
7b	300	302	270	260	260	260*FCPm	(300-260)	No
7c	300	302	270	0	300	300*FCPm	No	
Reserve[1]	300	300	0					

[1] Reserve = the reserve case is only added for clarity and is in fact a sub case of 2b (4b, 7b).
[2] System Charges do not apply: (i) to the extent the Contracted Capacity of a Unit has been de-rated in accordance with Clause 7.3 ; (ii) if the deviation is less than the transferred auxiliary load.
[3] Only if the Actual Available Capacity is outside a ± 2% range of the Dispatched Capacity and if the Unit is in local (manual) control mode.

ANNEX A-2: ANNUAL CONTRACTED AVAILABILITY OF CAPACITY

Calendar Years[2]	Contracted Annual Scheduled Outages for Unit 1	Contracted Annual Scheduled Outages for Unit 2	Non-Scheduled Outage Factor	Annual Contracted Availability of Capacity for Unit 1	Annual Contracted Availability of Capacity for Unit 2	Annual Contracted Availability of Capacity for Complex
Years	Hours	Hours		MWh	MWh	MWh
0	0 to 480[1]	0 to 480[1]	0.95	624,150	0	624,150
1	480	480	0.95	2,359,800	2,359,800	4,719,600
2	768	768	0.97	2,325,672	2,325,672	4,651,344
3	1632	480	0.97	2,074,248	2,409,480	4,483,728
4	480	1632	0.97	2,409,480	2,074,248	4,483,728
5	768	0	0.97	2,325,672	2,549,160	4,874,832
6	0	768	0.97	2,549,160	2,325,672	4,874,832
7	2880	480	0.97	1,711,080	2,409,480	4,120,560
8	480	2880	0.97	2,409,480	1,711,080	4,120,560
9	768	0	0.97	2,325,672	2,549,160	4,874,832
10	0	768	0.97	2,549,160	2,325,672	4,874,832
11	1632	480	0.97	2,074,248	2,409,480	4,483,728
12	480	1632	0.97	2,409,480	2,074,248	4,483,728
13	768	0	0.97	2,325,672	2,549,160	4,874,832
14	0	768	0.97	2,549,160	2,325,672	4,874,832
15	2880	480	0.97	1,711,080	2,409,480	4,120,560

[1] **$CASO_{tu}$** for Year 0 depends on the number of Availability Periods, as specified in the definition of Contracted Annual Scheduled Outage above

[2] In the event that the Term is extended beyond Calendar Year 15 in accordance with the provisions of this Agreement, the above cycle for Calendar Years 8 to 15 shall be repeated

APPENDIX B

PROJECT DESCRIPTION AND DESIGN CONDITIONS

1. SUMMARY OF THE SCOPE OF SUPPLY

1.1 **Complex Configuration:** The Complex configuration will be a pulverised lignite configuration of two Units each capable of generating not less than 300 MW (net). The final configuration of the Complex will be as described in this Appendix and otherwise as specified in the EPC Agreement(s).

1.2 **Complex Components:** The Complex configuration is expected to consist of the following major components:

(a) Buildings and structures;

(b) Turbine room crane;

(c) Auxiliary hoists and cranes;

(d) Lignite handling system;

(e) Limestone handling system;

(f) Combustion waste conveyor system as appropriate;

(g) 400kV exit switchgear;

(h) Cooling tower;

(i) Structural steel;

(j) Ductwork;

(k) Compressed air equipment;

(l) Compressed gas supply;

(m) Turbine generators;

(n) Emergency generator;

(o) Air preheat coils;

(p) Auxiliary cooling water heat exchangers;

(q) Condensers;

(r) De-aerators;

(s) Feedwater heaters;

(t) Condenser tube cleaning systems;

(u) Ash handling systems;

(v) Boiler feed pumps;

(w) Circulating water pumps;

(x) Condensate pumps;

(y) Condenser vacuum system;

(z) Fire pumps;

(aa) Miscellaneous pumps;

(ab) Lube oil conditioning;

(ac) Forced draft fans;

(ad) Induced draft fans;

(ae) Steam generators;

(af) Electrostatic precipitators;

(ag) Flue gas desulphurisation systems;

(ah) Fire protection systems;

(ai) Auxiliary boiler;

(aj) Shop fabricated tanks;

(ak) Piping, valves, supports and accessories;

(al) Cathodic protection system;

(am) Cable;

(an) Internal communication system;

(ao) Isophase bus duct;

(ap) Surge protection;

(aq) Motors;

(ar) Cable tray, raceway, conduit, electrical fittings;

(as) Ductbank;

(at) Earthing;

(au) Batteries and battery chargers;

(av) Continuous AC power equipment;

(aw) AC/DC panelboards;

(ax) Motor control centres;

(ay) Switchgear and bus duct;

(az) Secondary unit substations;

(ba) Transformers;

(bb) Distributed control system;

(bc) Continuous flue gas emission monitors;

(bd) Miscellaneous instrumentation and controls;

(be) Chemical feed equipment;

(bf) Biocide equipment;

(bg) Raw water pre-treatment and cycle make-up treatment;

(bh) Laboratory equipment;

(bi) Water quality control equipment;

(bj) Sanitary waste treatment;

(bk) Construction facilities;

(bl) Railroad spurs as appropriate;

(bm) Intake structures (existing pumphouse);

(bn) Painting;

(bo) Major equipment erection;

(bp) Pipe and equipment insulation;

(bq) Site services during construction;

(br) Boiler chemical cleaning.

1.3 **Project Management:** 3-C Bulgaria or its nominated Affiliate will be responsible throughout the Term for the engineering, project management, delivery of equipment to the Site, spare parts, construction services, soil investigations, permitting related to the Complex, consumables, operator training and the testing and inspection of all equipment and systems under 3-C Bulgaria's ownership.

1.4 **Work Not Included in Scope of Supply:** The following work is not included in the services to be provided under this Agreement by 3-C Bulgaria or its nominated Affiliate but are part of the primary obligations for which the Purchaser is responsible under Clause 4 of this Agreement:

(a) Relocation, operation and maintenance of 110kV lines crossing the Site;

(b) Construction, operation and maintenance of the high voltage primary substation, including tariff metering and dispatch communication;

(c) Operation of the Canteen at the TPP;

(d) Demolition of existing equipment on Site to grade level,

(e) Operation and maintenance of the existing fuel oil delivery and storage system at the TPP, if required under the EPC Agreement(s);

(f) Operation and maintenance of the existing Rozov Kladenetz Lake intake except for modifications discussed in Appendix E;

(g) Operation and maintenance of the Sazlijka River pumping station;

subject in each case to any qualifications contained in the Site Agreement.

2. DESCRIPTION OF SITE AND LOCATION DRAWING FOR THE COMPLEX

2.1 **Existing Facility:**

(a) The Complex will be located on the existing site of the TPP located near Galabovo in Bulgaria, about 40 km south east of Stara Zagora and about 250 km east of Sofia. The Complex is located near the open cast lignite mine operated at the date of this Agreement by MMI. The TPP is owned and operated by Brikel EAD at the date of this Agreement on a site jointly owned by Brikel EAD and the Purchaser.

(b) The first unit of the TPP began operation in 1959. The plant subsequently consisted of four 50MW units and two 150MW units, along with a gas drum drying facility for pre-drying of lignite. There is a lignite briquette fabrication plant just east of the TPP.

(c) The life of the TPP's technical equipment is nearly exhausted. The two 150MW units have been shut down and are mostly demolished. The drying plant has been shut down. The lignite briquette plant load is a major factor in the operational load of the TPP. The remaining power generation facilities are expected to close in the near future.

2.2 **Site Location:** The Site area provided by the Purchaser for the Complex is described in Appendix H and the Site Agreement;

3. CAPACITY AND HEAT RATE FOR THE COMPLEX

3.1 **Unit Description:** There will be two new Units. Each Unit will be designed to provide a Net Electrical Energy Output in accordance with the requirements of this Agreement.

3.2 **Initial Net Heat Rate:** The net heat rate of each Unit in new and clean condition (as at the Date of Commercial Operation/the Date of Full Commercial Operation, according to the Unit) shall not exceed 10322 kJ/kWh (LHV basis) at Full Load (based on 300 MW net per Unit) when adjusted to the heat rate design conditions set out in Annex F-1 in Appendix F. This net heat rate is based on the Environmental Requirements and in the event that new Legal Requirements relating to the environment are introduced subsequent to the date of this Agreement, this net heat rate may vary with consequent adjustments to the determination of the Energy Payments in accordance with the procedures described in Clause 10.7 of this Agreement. The Net Heat Rate correction curves are contained in Diagrams R-1A to R-1D in Appendix R.

4. TECHNICAL DESCRIPTION OF THE COMPLEX

4.1 **General Layout and Equipment:**

(a) The general layout of the Complex will as shown in Diagram R-7.

(b) The equipment shall comply with the requirements stated in this Agreement.

4.2 **Fuel Supply:**

(a) Lignite will be received by rail or conveyor from the Fuel Supplier on terms agreed by 3-C Bulgaria or its Affiliate in accordance with the Lignite Supply Agreement and will be crushed and stock-piled in an area with sufficient capacity for not less than seven (7) Days' active storage if delivered by conveyor and not less than fourteen (14) Days' active storage if delivered by rail. The lignite will be blended. The lignite will not be covered. The lignite will be reclaimed, crushed and conveyed to lignite silos feeding the mills to each boiler.

(b) Heavy fuel oil for the Complex will be taken from the existing heavy fuel oil ("**HFO**") system serving the TPP. The TPP receives HFO by rail. The HFO is unloaded with existing equipment and stored in existing fuel oil tanks (2x2000 tonnes and 1x1000 tonnes). Existing HFO forwarding pumps may be reused or upgraded by the EPC Contractor(s) for use with the new Units or new pumps installed and a new pump house if appropriate.

(c) The Complex will require diesel fuel oil ("**DFO**"). A new diesel fuel oil system will be provided by 3-C Bulgaria.

(d) Limestone will be delivered by rail.

4.3 **Cooling Water System:** The EPC Contractor(s) will reuse the TPP's existing cooling water intake and circulating water piping system.

4.4 **Sewage and Rainwater System:** Sewage will be treated in a new sewage treatment

plant to be provided by 3-C Bulgaria.

4.5 **Specification of the Main Facilities:**

(a) The boilers will be sub-critical pulverised lignite fired units. All details of each of the two boilers will be as specified in the EPC Agreement(s). General characteristics are expected to be as follows:

(i) Boiler type: tower boiler.

(ii) Boiler supplier: Alstom Power.

(iii) Boiler technology: pulverised lignite.

(iv) Draught system (per boiler):

(A) Type of system: balanced draught;

(B) Number of FD fans: 2x50%;

(C) Number of ID fans: 2x50%.

(v) Burners.

(A) Main fuel: lignite;

(B) Supplementary fuel: HFO (and DFO for the auxiliary boiler);

(C) NOx emission limits: 200 mg/Nm^3, 6% O_2, dry;

(vi) Boiler construction: membrane walls, drum, super-heater, re-heater, economiser tube banks.

(vii) Sootblowers: steam and water.

(viii) Air preheat system – the air preheat system will be the means of heating the draft air prior to entering the air heater.

(ix) Mills:

(A) Type: beater wheel mills (BWM);

(B) Number: 6 (one spare with worst case lignite).

(b) Steam Turbine Generators and Ancillary Systems: The steam turbine generators will be sub-critical units. All details of the steam turbine generators will be as specified in the EPC Agreement(s). Characteristics are expected to be as follows:

(i) Type of turbine: Tandem compound two-flow machine, one per Unit.

(ii) Turbine parameters: The Gross Capacity shall be in the range of 340 to

350 MW at heat rate design conditions specified in Annex F-1 in Appendix F.

(iii) Governor: EHC system.

(iv) Turbine auxiliaries: Complete system provided. These will include the lube oil system complete with oil tanks, jacking oil system, gland steam condensers and turbine supervisory controls.

(v) Turbine bypass system.

(vi) Generator:

(A) Type: hydrogen cooled, one per Unit;

(B) Hydrogen supply: bottles;

(C) Excitation: static;

(D) Generator breakers: one per generator;

(E) Connection to step-up transformers: isophase bus duct;

(F) Design power factor: 0.85;

(G) Terminal voltage: approximately 15kV;

(H) Frequency: 50 Hz;

(I) Rated capacity: about 400 MVA per generator.

(vii) Condenser: One or two pass surface condensers complete with a tube cleaning system.

(viii) Condenser air extraction system: vacuum pump and/or steam jet air ejector system, as selected by the EPC Contractor(s).

(ix) Condensate pumps: 2x100% capacity pumps per Unit.

(x) Feedwater heaters: Seven, including the de-aerator.

(xi) Circulating water system:

(A) circulating water pump system: 1x100% capacity pump per Unit with a shared spare 100% capacity pump common to both Units or equivalent spare capacity;

(B) circulating water pipe: coated steel;

(C) cooling tower design: mechanical draft or natural draft with internal flues;

(D) Turbine backpressure, condenser range and cooling tower approach: to be optimised and selected by the EPC Contractor(s).

(c) Main Transformers: The step-up transformers will be rated at the generator capacity as specified in the EPC Agreement(s). The capacity is expected to be approximately 400 MVA. Each transformer will be an outdoor, 3-phase unit, rated at the generator primary voltage of approximately 15kV and the Grid System's secondary voltage of 400 kV. There will be one step-up transformer per generator. Each transformer will be equipped will on-load, eight (8) steps tap changer

There will be two outdoor 3-phase unit auxiliary transformers. The capacity of each transformer will be selected by the EPC Contractor(s) to cover fully the auxiliary loads required to start each Unit and to bear common loads. The primary voltage will be the generator voltage expected to be 15 kV and secondary voltage is expected to be 6.6 kV. Fire walls will separate each transformer and fire protection will be provided in accordance with applicable Legal Requirements.

(d) Air Quality Control Equipment:

(i) The EPC Agreement(s) will specify particulate control and flue gas desulphurisation ("**FGD**") equipment details.

(ii) The type of particulate control device will be an electrostatic precipitator. The plant will be designed to achieve a particulate emission limit of 30 mg/Nm^3 (6% O_2, dry) consistent with Environmental Requirements, when burning worst case lignite which is within specification.

(iii) The FGD equipment will be a wet limestone gypsum system designed to remove 95% of SO_2 emissions from the flue gases for Fuel when using limestone that meets guaranteed specification.

(iv) Limestone will be received and stored on Site. The on-Site storage requirements will be 14 Days

(v) Cooling tower height, as appropriate, will be selected on the basis of the dispersion calculations undertaken as part of the environmental impact assessment for the Project.

(vi) Noise will be limited as follows:

(A) Indoor noise: 85dBA at 1m distance except for the control room for which such limit shall be 55dBA.

(B) Outdoor noise at the Site boundary: 70dBA Leq.

(C) Intermittent noise (e g. safety valve operation): not limited.

World Bank noise emission limits as at the date of this Agreement will also apply.

(e) Ash and FGD Wastes:

(i) Ash from combustion of the lignite will consist primarily of bottom ash from the boilers and fly ash from the electrostatic precipitators ("**ESPs**").

(ii) Bottom ash will be collected in a submerged chain conveyor located below each boiler. After dewatering, the bottom ash will be stored in silos.

(iii) Fly ash will be collected from the ESPs by a pneumatic dry system that will deliver the fly ash to silos.

(iv) The wet limestone FGD system will be equipped with aeration to produce flue gas desulphurisation gypsum. The flue gas desulphurisation gypsum will be dewatered and conveyed to a flue gas desulphurisation gypsum silos.

(v) Wastes from the silos will be transported to the dump area by conveyor or railcar. Alternatively, flue gas desulphurisation gypsum and ash may be transported separately by conveyor to the dump area.

(f) Wastewater Treatment: The Complex will be designed for zero wastewater discharge except during emergency conditions. The details of the wastewater treatment will be as specified in the EPC Agreement(s).

(g) Other Makeup Water: Cycle makeup water and service water will be supplied by the Dams and Cascades Department of the Purchaser from water abstracted from the Rozov Kladenetz Lake. Potable water will be generated on Site.

(h) Miscellaneous Complex Systems: The following Complex systems will also be provided:

(i) Compressed air system: air compressors to supply service and control air, complete with air receivers, dryers and supply loops.

(ii) Auxiliary boiler system: sized for Start-Up of a single Unit.

(iii) Emergency generator.

(iv) Miscellaneous water storage tanks.

(v) Auxiliary cooling water system and bearing cooling water system.

(vi) Remaining mechanical systems: these include piping, valves, supports, miscellaneous piping accessories and other systems required for a complete power station.

(vii) Electrical systems: these will include cathodic protection, communications system, cables, DC system, UPS system, switchgear, secondary unit substations, motor control centres and other systems required for a complete power station.

(viii) Control system: to include a modern distributed control system and all other instrumentation and control for a complete power station.

(ix) Remaining chemical systems: these include cooling tower makeup biocide equipment, cycle makeup treatment equipment (pre-treatment and demineralisation), cycle chemical feed equipment, sampling and analysis equipment, oily water separation and other systems.

(x) Civil/structural systems: these include new buildings, turbine room crane, steel, and other equipment for a complete power station.

4.6 **Electrical Connections:** Electrical connections will be in accordance with Diagram R-2 in Appendix R. The boundary shall be at the landing tower insulator at the connections leading to the capacitor-voltage transformer terminals. The Purchaser will provide the Commercial Metering System, the primary substation and the Grid System.

4.7 **Control Technology:**

(a) Noxious emissions: See Paragraph 4.5 of this Appendix where air, liquid and noise limits are discussed.

(b) Start-Up Power: power to supply the auxiliary requirements of the Complex for Start-Up when the Complex has been completely shut down will be supplied by the Purchaser from the Grid System through the auxiliary transformers with the generator breakers open. An emergency generator will also be provided to ensure the safe run down of the Units in the event that both Units go into outage.

4.8 **Operation:** The Complex will be designed for a minimum life of thirty (30) Years from the Date of Commercial Operation and pressure parts will be designed for a minimum operating life of 200,000 hours.

APPENDIX C
TECHNICAL LIMITS

The following Technical Limits shall apply to the operation of the Complex:

1. Operations:

(a) The number of Shut-Down and Start-Up Cycles per Unit per Calendar Year (pro-rata for part of a Calendar Year, rounding down for fractions) requested by the Purchaser (including on conclusion of Scheduled Outages) for which 3-C Bulgaria will not receive payment as Ancillary Services from the Purchaser is as follows:

With Cold Starts	3
With Warm Starts	10
With Hot Starts:	20

(b) Each Unit shall be operated within the following Technical Limits:

Unit Maximum Load: the Declared Capacity for the Unit

Unit Minimum Load: (i) 120 MW (net) if lignite LHV is less than 1600 kcal/kg; and

(ii) between 120 MW (net) and 150 MW (net) if lignite LHV is between 1600 kcal/kg and 1700 kcal/kg (escalating on a straight line basis);

in each case when firing lignite without the use of heavy fuel oil (HFO).

(c) Start-up times for a Unit in minutes shall not exceed the following:

Type of Start-Up	Time to Unit Synchronisation	Time to Unit Minimum Load	Time to Unit Maximum Load
Cold Start	160	250	305 minutes
Warm Start	100	150	185 minutes
Hot Start	70	90	120 minutes

(d) The Complex can be instructed to change the load of each Unit between the Unit Minimum Load and the Unit Maximum Load at rates of change which do not exceed 6 MW/minute

(e) Each Unit shall be operated in accordance with the limits described for that Unit in Tables G-2 and G-3 of Appendix G.

2. **Grid System Frequency Variations:** The frequency of the Grid System shall be nominally 50 Hz and shall be controlled between 49.5 Hz and 50.5 Hz unless an Emergency shall occur when frequency deviations in the range 47 Hz to 52 Hz may occur. Each Unit shall have the following operational capabilities within the frequency ranges quoted:

- from 49.5 Hz to 50.5 Hz: normal operation
- from 50.5 Hz to 51.5 Hz: continuous operation
- from 51.5 Hz to 52.0 Hz: 10 seconds at Full Load
- from 47.5 Hz to 49.5 Hz: continuous operation
- from 47.0 Hz to 47.5 Hz: 10 seconds
- below 47.0 Hz and above 52.0 Hz: the Unit shall not remain in operation.

3. **Grid System Voltage Variations:** The operational capability of each Unit shall be subject to Reactive Power flow level restrictions associated with that Unit. Permissible operating voltage limits are specified in the following table:

SYSTEM	OPERATION	VOLTAGE LIMITS
400 kV	Normal	-5% / +5%
400 kV	Protection trip settings	115% for 10 seconds 135% for 0.1 seconds

When the System Operator detects a voltage condition in the range 420kV to 460kV it will initiate such measures to control the over-voltage and it is allowed up to 30 minutes in which to effect such measures. Throughout such period 3-C Bulgaria shall control the Reactive Power in the manner specified in Paragraph 8 of Appendix G.

4. **Switching Equipment Short-Circuit Withstand Capability:** All electric equipment in the 400 kV switchyards for the Complex and the Grid System shall be designed to withstand 20.4 kA currents except where the device or transformer impedance has the effect of restricting the fault current to a lower value. The devices shall be designed to withstand fault current on the basis that the maximum prospective short-circuit current would be 20.4 kA if the effects of device impedance were excluded.

5. **Fault Detection and Clearing Limits for faults cleared by the protective relays on the Complex:** The requirements for maximum fault clearing time with both Units in service shall not exceed the following:

For faults detected and cleared by primary protective relays	80 ms
For faults detected and cleared by back-up protective relays	according to the selective grading requirements provided by the Purchaser based on power system dynamic analysis
For faults detected and cleared by breaker failure protection	260 ms

Primary (duplicate 400 kV) and back-up 400 kV transmission line protection cubicles with associated control/termination drawings shall be provided by the provider (the Purchaser or 3-C Bulgaria) of the relevant switchyard equipment.

6. **Disconnection of Units From the Grid System and Island Operation on the Unit/Complex Auxiliaries:** In the case of a sudden load rejection and unintended disconnection from the Grid System, each Unit shall be capable of stable transition to island operation on Unit auxiliaries, followed by island operation for not less than 30 minutes.

APPENDIX D
PROJECT SCHEDULE

1. INTRODUCTION

The Project Schedule contained in Paragraph 2 is illustrative and contains only dates currently anticipated assuming there to be no delays. The only dates intended to be legally binding on the Parties are those referred to in Clauses 1 to 22 of this Agreement

2. PROJECT SCHEDULE

Key Date	Estimated Date
Signing of Financing Agreements	31st December 2001
Effective Date	31st March 2002
Final Notice to Proceed under the EPC Agreement(s)	1st April 2002
Unit 1	
First Commissioning Date	31st December 2004
Date of Commercial Operation	31st March 2005
Unit 2	
Second Commissioning Date	30th June 2005
Date of Full Commercial Operation	30th September 2005

APPENDIX E
INTERCONNECTION POINTS, ELECTRICAL INTERCONNECTION FACILITIES AND CONSTRUCTION INTERFACES

1. ELECTRICAL SYSTEMS

1.1 Electrical Interconnections:

(a) High Voltage System: The connection will be as defined in Diagram R-4 in Appendix R. The tension tower of the 400kV power line shall be constructed by the Purchaser just outside the perimeter fence of the 400kV exit switchyard at the Complex.

(b) Auxiliary System (medium voltage and low voltage): There will be no external interconnection to the Grid System.

(c) Earthing System: The earthing interconnections will be mutually agreed at the detailed design stage during the implementation of the Project.

(d) SCADA System: The interface between the Purchaser's SCADA system, inclusive of the Commercial Metering System, telecommunications and the Complex control system, will be at the distribution frame (terminal panel) located in an air-conditioned room located in the 400 kV exit switchyard within the Complex.

(e) Construction Power: The interface will be as more particularly specified in the EPC Agreement(s).

1.2 Technical Requirements of Apparatus: The apparatus will comply with any applicable IEC standards and the requirements of the Bulgarian National Grid Code at the date of this Agreement.

1.3 Electrical Relay Protection Systems: As a minimum the interconnection to the Grid System should include the following protection requirements, as shown in Diagram R-3 in Appendix R:

(a) Circuit breaker failure protection;

(b) Generator loss of excitation protection;

(c) Earth fault protection;

(d) Short circuit fault protection;

(e) Back-up protective system;

(f) Trip circuit monitoring system;

(g) Fault clearance time discrimination with the Grid System protection systems.

1.4 **Metering Point:** The meters for the Net Electrical Energy Output of each Unit will be located in the air-conditioned room at the 400kV switchyard at the Complex. The metering point shall be at the CTs and VTs located in the 400kV switchyard at the Complex. For each generator the gross Active Power and Reactive Power meters shall be located in the Complex's control room and shall transmit signals to the Purchaser's air-conditioned control room in the 400 kV exit switchyard. The meters installed on the 400 kV terminals and on the generator terminals shall measure Active Power and Reactive Power. All meters for Reactive Power and the 400 kV Active Power meter shall be bi-directional.

1.5 **Primary Substation:**

(a) The Purchaser's 400kV switchyard will be located approximately 7km from the Complex at the Maritza East substation.

(b) To ensure that 3-C Bulgaria is able to meet its obligations under this Agreement and without prejudice to or limitation of its own obligations under this Agreement the Purchaser will be responsible for:

(i) the Commercial Metering System, PLC channels and Remote Terminal Units (RTUs), the information interface boundary between the Complex control system and the Purchaser's SCADA system which shall be at the distribution frame (terminal panel) of the Purchaser's control panels in the air-conditioned room referred to in Paragraph 1.1(d) above;

(ii) maintaining adequate insurance for all equipment provided pursuant to its obligations in this Paragraph 1.5.

1.6 **Transmission Lines and HV Grid Connections:** The Purchaser will be responsible for all activities associated with the transmission lines and HV grid connections to the Purchaser's primary switchyard including engineering, procurement and construction, commissioning, operation and maintenance, land and insurance of these facilities. The Purchaser will be responsible for obtaining and maintaining all associated Governmental Approvals.

1.7 The protection of the transmission line between the Complex and the Purchaser's Maritza East substation shall be jointly co-ordinated and shall be in accordance with the Purchaser's reasonable requirements.

2. WATER

2.1 **Raw Water Supply System:** Water for cycle make-up, service water and potable water will be supplied from the Rozov Kladenetz Lake and treated appropriately.

(a) Interconnections: the existing intake and circulating water system will be re-used with the following interconnections:

(i) at the pumping station for the upgrade of the screens and circulating water pumps;

(ii) at the circulating water ("**CW**") piping;

(iii) at the new fire water piping.

(b) Responsibilities:

(i) Re-use of existing intake: 3-C Bulgaria will be responsible for engineering, procuring, constructing and commissioning any modifications to the existing intake which 3-C Bulgaria considers necessary to enable it to meet its obligations under this Agreement. 3-C Bulgaria will be responsible for operation and maintenance and insurance of the modified screens, pumps and associated piping used in conjunction with the Complex. Thereafter, 3-C Bulgaria will be responsible for operation and maintenance of the intake and its components associated with the Complex. The auxiliary power for the pumps and screens to be used for the Complex will be provided by 3-C Bulgaria. 3-C Bulgaria will not be responsible for maintaining Brikel EAD's own equipment associated with the cooling water intake or for supplying electrical power to this equipment.

(ii) Existing buried fire loop: 3-C Bulgaria shall be responsible for the cost of any modifications, if required, to the buried fire loop in the new power block area. Subsequent maintenance of the fire loop shall be the responsibility of 3-C Bulgaria.

(iii) Sazlijka river pumphouse: the Dams and Cascade Department of the Purchaser will be responsible for the operation and maintenance, insurance, auxiliary power and consumable requirements of the existing Sazlijka River pumphouse.

2.2 **Storm Water:**

(a) Interconnections: 3-C Bulgaria will route emergency overflow water to a new discharge to the Sazlijka River at a point before it joins the Sokolitza River.

(b) Responsibilities: 3-C Bulgaria shall construct, operate and maintain the emergency overflow water discharge system.

2.3 **Wastewater:**

(a) Interconnections: 3-C Bulgaria shall discharge wastewaters during emergency conditions at the same discharge point as the uncontaminated storm water above.

(b) Responsibilities: 3-C Bulgaria shall:

(i) engineer, procure, construct and commission all wastewater treatment systems necessary for the Complex to meet applicable Legal Requirements; and

(ii) operate, maintain and insure its new wastewater treatment systems.

2.4 **Construction Water:**

(a) Interconnections: the interconnection to the Purchaser's existing service water system shall be at a point south of the new power block to be specified in the EPC Agreement(s).

(b) Responsibilities: 3-C Bulgaria's responsibilities shall include piping to the connection, distribution piping and flow metering. The Purchaser shall be responsible for supplying construction water at required quantities and at a price not exceeding 0.001373 Lev/m^3 indexed (from the date of this Agreement) to the Bulgarian Consumer Price Index.

3. **FUEL**

3.1 **Lignite:**

(a) Interconnections: the new interconnection for delivery of lignite to the Site will be at a new transfer tower (if by conveyor) or a rail spur off at the north west of the Complex (if delivered by rail).

(b) 3-C Bulgaria shall be responsible for:

(i) the engineering, procurement, construction and commissioning of the new rail spur (if applicable), unloading system, crushing systems, stock-out systems and reclaim systems;

(ii) the operation, maintenance and insurance of the systems listed in (i) above,

(iii) building and maintaining a perimeter fence around the new receiving, storage and reclaim facilities;

(iv) all mobile equipment after delivery of the lignite;

(v) any and all work for connections, signalling and other modifications associated with the rail spur (if applicable).

3.2 **Heavy Fuel Oil:**

(a) Interconnections: Interconnections shall be at the existing heavy fuel oil (HFO) forwarding station of the TPP.

(b) Responsibilities: 3-C Bulgaria intends to reuse the TPP's existing HFO system. This system currently includes a rail receiving system and an existing storage system. 3-C Bulgaria will engineer, procure, construct and commission any modifications needed to the existing HFO system which 3-C Bulgaria considers necessary to enable it to meet its obligations under this Agreement. Brikel EAD will be responsible for the operation and maintenance, auxiliary power and insurance of the HFO system (up to and including the storage tanks) until such time as the existing units of the TPP are all taken out of service. Thereafter, this responsibility will be assumed by 3-C Bulgaria. If new forwarding pumps are built by 3-C Bulgaria and dedicated to the Complex, 3-C Bulgaria shall operate, maintain and insure those pumps and the downstream system. If forwarding pumps serve both the TPP and the Complex, then 3-C Bulgaria shall operate, maintain, insure and be responsible for auxiliary power to those pumps. Any piping, filters, valves and other equipment dedicated to the Complex shall be operated, maintained and insured by 3-C Bulgaria.

3.3 **Diesel Fuel Oil:**

The Complex will not use the existing diesel fuel oil system of the TPP but will have its own system.

3.4 **Limestone:**

(a) Interconnections: The point of interconnection for delivery of limestone shall be at a new area on the Complex Site to be specified in the EPC Agreement(s).

(b) Responsibilities: 3-C Bulgaria or its nominated Affiliate shall be responsible for concluding the Limestone Supply Agreement(s).

4. **COMBUSTION WASTES**

4.1 **Interconnection:** To be specified in the EPC Agreement(s).

4.2 **Responsibility:** 3-C Bulgaria or its nominated Affiliate shall be responsible for arranging the disposal of ash and flue gas desulphurisation gypsum wastes under the Waste Disposal Agreement.

5. **SITE ACCESS**

5.1 **Interconnections:** the point of interconnection for Site access shall be the access road running north-south of the Complex, along the east boundary of the Complex. Road access will also be from an internal road controlled by the Purchaser that runs between the old ash pond #1 and the existing lignite storage yard at the TPP. Additionally, there is rail access to the Site from the numerous rail spurs entering the Site.

5.2 **Responsibilities:** 3-C Bulgaria shall be responsible for any damage, repair or upgrade necessary to the existing roads due to the performance of 3-C Bulgaria's obligations under this Agreement. This shall extend to roads, bridges, pipe racks, overhead lines, and any structures affected by the performance of 3-C Bulgaria's obligations under this Agreement outside the Site boundary. During construction, the EPC Contractor(s) will

be responsible for any damage, repair or upgrade work to the rail spurs necessary due to 3-C Bulgaria's transporting 3-C Bulgaria's equipment to the Site.

6. TELEPHONE/COMMUNICATIONS

6.1 **Interconnections:** The information interfaces between the Grid System and the Complex will comprise the Purchaser-supplied telephone connection in the control room of the Complex and the SCADA system. The terminals for both systems will be located in the air-conditioned room in the Complex switchyard. This room shall be provided by 3-C Bulgaria with auxiliary power supplies at 220V, 50Hz and at 48Vdc. The 220V, 50Hz system shall be supplied from a UPS. The quality of the power supplies shall be as follows:

- for the 220V system, the equipment shall be rated at 3kVA for 2 hours;
- for the 48Vdc system, the capacity shall be 10 Ah.

6.2 **Responsibilities:** The equipment and connections will be procured and constructed at the Purchaser's cost. The Purchaser shall operate and maintain this system. Calls from the Purchaser will be for the Purchaser's account. Calls from 3-C Bulgaria will be for 3-C Bulgaria's account.

6.3 **Interface of the Purchaser's SCADA/EMS System and the Unit Control Systems of the Complex**

(a) The interface between RTU TG 809 at the Complex and the Unit control systems shall be a direct interface for analogue and discrete signals. RTU signals shall be transmitted/directed via cables to/from the respective inputs/outputs of the Unit control systems at the Complex.

(b) The RTU TG 809 shall be purchased by 3-C Bulgaria based on a technical specification provided by the Purchaser and subsequently the Purchaser shall reimburse 3-C Bulgaria its cost of such purchase (including Value Added Tax).

(c) The table below contains a list of signals exchanged between SCADA/EMS and the Unit control systems of the Complex

Analogue signals from the System Operator to the Complex:

No	Name		
1	Desired Unit 1 MW	0 - 5 mA	"0" for Pmin "5" for Pmax
1 1	Strobe Signal	200 ms	
2	Desired Unit 2 MW	0 - 5 mA	"0" for Pmin "5" for Pmax
2 1.	Strobe Signal	200 ms	
3.	Desired Plant U 400 kV	0 – 5 mA	"0" for 400kV "5" for 420kV
3 1	Strobe Signal	200ms	

Analogue Signals from the Complex to the System Operator:

No	Name		Quantity
1.	**Voltage**		
1.1	Plant Bus A Voltage 400kV		1
1.2	Plant Bus B Voltage 400kV		1
1.3	Unit1 Voltage		1
1.4	Unit2 Voltage		1
2.	**Active Power MW**		
2.1.1	Active Power Unit 1 gross	0 - 5 mA	1
2.1.2	Active Power Unit 1 net	0 - 5 mA	1
2.2.1	Active Power Unit 2 gross	0 - 5 mA	1
2.2.2	Active Power Unit 2 net	0 - 5 mA	1
3.	**Reactive Power MVAr**		
3.1.1	Reactive Power Unit 1 gross	-5 - 0 - 5 mA	1
3.1.2	Reactive Power Unit 1 net	-5 - 0 - 5 mA	1
3.2.1	Reactive Power Unit 2 gross	-5 - 0 - 5 mA	1
3.2.2	Reactive Power Unit 2 net	-5 - 0 - 5 mA	1
4.	Unit Frequency	48 - 52 Hz	2
5.	**Control Active Power**		
5.1	Unit Minimum MW Limit	0 - 5 mA	2
5.2.	Unit Maximum MW Limit	0 - 5 mA	2

Digital Signals from the Complex to the System Operator:

No	Name	Quantity
1.	All Breakers to Unit-Transformer 1	2
2.	All Breakers to Unit-Transformer 2	2
3.	All Disconnects to Unit-Transformer 1	1
4.	All Disconnects to Unit-Transformer 2	1
5.	**Signals to Control Active Power**	
5.1	Unit 1 on Remote Control	1
5.2	Unit 1 Master Alarm	1
5.3	Unit 2 on Remote Control	1
5.4	Unit 2 Master Alarm	1
6	**Signals to Control Voltage 400 kV**	
6.1	Unit on Remote Control	1
6.2	Unit on Master Alarm	1

No	Name	Quantity
7	**Unit Transformer** - Step position	
7.1	Unit Transformer 1	1 (8 bit)
7.2	Unit Transformer 2	1 (8 bit)
8.	**Protection for Unit and Transformer** Common signal: -Electrical protection group -Technological protection group -Circuit breaker failure protection group	 1 1 1

6.4 **Gross Output Signals**

Digital output signals from each generator gross Active Power and Reactive Power meters shall be routed from the meter located in the Complex's control room to the Purchaser's distribution frame (terminal panel) in the air conditioned control room in the 400 kV exit switchyard.

7. MISCELLANEOUS SYSTEMS

7.1 **Additional Services:** In general, 3-C Bulgaria shall provide, operate and maintain construction laydown, parking, construction waste disposal, lighting, perimeter fencing and construction facilities. Construction laydown shall be on existing ash ponds #1 and #2 as well as on any unused areas of the Site.

7.2 **Canteen Access:** The Purchaser shall provide space in its canteen for 3-C Bulgaria's and its contractors' staff during construction and operation of the Complex (any food or beverages to be supplied at the expense of those staff). The Purchaser shall operate and maintain the canteen until all the existing units of the TPP are taken out of service, after which 3-C Bulgaria shall operate and maintain the canteen on terms to be agreed at that time.

APPENDIX F
PERFORMANCE TESTING

1. GENERAL

1.1 **Status of Appendix:** This Appendix is not intended to provide a detailed test procedure. It is a guideline to be used as the basis for procedures to be developed during construction, Commissioning and operation of the Complex. Development and implementation of test procedures for the construction, Start-Up and Commissioning of each Unit in accordance with this Appendix F will be the responsibility of 3-C Bulgaria.

1.2 **Testing Programme:** The overall testing programme for the Project shall consist of five phases:

(a) construction testing, being the responsibility of and at the sole discretion of 3-C Bulgaria;

(b) Shut-Down and Start-Up Cycle testing of equipment and systems, required by the Purchaser to demonstrate that each Unit is technically capable of safe operation when connected to the Grid System (see Paragraph 2. below);

(c) tests on Commissioning (the "**Performance Tests**") to determine the initial Tested Capacity of each of Unit 1 and Unit 2 (see Paragraph 3 below);

(d) demonstration of Unit 1 reliability following the Date of Commercial Operation and of Unit 2 reliability following the Date of Full Commercial Operation ("**Reliability Establishment**"), required by 3-C Bulgaria to demonstrate the reliability of Unit 1 and Unit 2 to the Financing Parties (see Paragraph 4 below); and

(e) following the Date of Commercial Operation/Date of Full Commercial Operation Availability Tests to determine the Tested Capacity of each of Unit 1 and Unit 2from time to time (see Paragraph 5 below).

3-C Bulgaria or the Purchaser may also require additional testing following the Date of Commercial Operation/Date of Full Commercial Operation (see Paragraph 6 below).

2. SHUT-DOWN AND START-UP CYCLE TESTING

2.1 **Notice of Testing:** At least fifteen (15) Days prior to the commencement of Shut-Down and Start-Up Cycle testing 3-C Bulgaria shall provide a testing schedule to the Purchaser and to the Independent Engineer detailing the timing and duration of all tests. Following receipt of such notification, the Parties shall consult regularly with each other and with the Independent Engineer regarding the Shut-Down and Start-Up Cycle tests and the Purchaser and the Independent Engineer shall be kept informed of changes in the schedule by 3-C Bulgaria. The Purchaser and the Independent Engineer shall have the right to witness the Shut-Down and Start-Up Cycle tests of the Complex provided, however, that tests may be conducted validly at the notified times in the

absence of the Purchaser's representatives and the Independent Engineer.

2.2 **Test Procedures:** 3-C Bulgaria will provide to the Purchaser the test procedures for the equipment and/or systems listed below at least fifteen (15) Days prior to conducting the tests:

(a) Protection systems/settings;

(b) Turbine generator protection and trip settings, generator AVR and Power System Stability (PSS) operation;

(c) Unit testing, to simulate Full Load rejection due to a trip condition at 100% maximum continuous rating ("**MCR**") to verify control systems;

(d) Unit testing, to verify and check operating stability when operating at 75% and Unit Minimum Load (without fuel oil support), MCR load conditions with load variations by increasing or decreasing the loads and to verify automatic change-over of standby equipment; and

(e) Unit testing to demonstrate the ability to participate in Primary Control and Secondary Control (as defined in Appendix G) and voltage control.

2.3 **Completion of Tests:** 3-C Bulgaria shall complete the Shut-Down and Start-Up Cycle tests having regard to the provisions of Appendix B (Project Description and Design Conditions) and Appendix E (Interconnection Points, Electrical Facilities and Construction Interfaces) prior to commencing the Performance Tests.

3. PERFORMANCE TESTING DURING COMMISSIONING

3.1 "**Performance Tests**" shall mean the testing conducted by 3-C Bulgaria to determine:

(a) the Net Electrical Energy Output for Unit 1 at Full Load with the auxiliary power loads of Unit 2 (if any) at zero; and

(b) the Net Electrical Energy Output for Unit 2 at Full Load with Unit 1 running at Full Load;

Such Performance Tests, once successfully completed, shall thereby establish the initial Tested Capacity of Unit 1 and Unit 2 respectively.

3.2 **Notice of Performance Tests:** 3-C Bulgaria shall give the Purchaser and the Independent Engineer at least fifteen (15) Days' prior written notice of the date scheduled for the initial Performance Test of each Unit. Such notice shall include descriptions of:

(a) the Performance Test procedures and programme;

(b) the instrumentation to be utilised and the method of recording each variable including calibration requirements;

(c) the protective relay settings (after discussion and agreement with the

Independent Engineer);

(d) the availability of auxiliaries and stand-by equipment; and

(e) the standards to be adopted during testing (to be those of an internationally recognised standards authority).

The procedures for sampling, data collection and data reduction shall be agreed by 3-C Bulgaria and the Purchaser prior to any such notice being given. Following receipt of such notice, the Parties shall consult regularly with each other and with the Independent Engineer regarding the Performance Tests.

3.3 **Rescheduling:** During the fifteen (15) Day period before any Performance Test, 3-C Bulgaria may reschedule that Performance Test to a later date without the consents of the Purchaser or the Independent Engineer provided not less than twenty-four (24) hours' notice of such later date is given to each of the Purchaser and the Independent Engineer.

3.4 **Presence during Testing:** The Performance Tests will be performed by 3-C Bulgaria and witnessed by the Purchaser and the Independent Engineer provided, however, that such tests will be validly conducted at the scheduled time in the absence of the Purchaser or the Purchaser's representatives if the notice referred to in Paragraph 3.2 above was duly given and the Independent Engineer is present during the testing.

3.5 **Test Conditions:** Each Performance Test shall be conducted for a period of seventy-two (72) hours with the relevant Unit being dispatched by the Purchaser throughout at Full Load. The Purchaser shall make reasonable efforts to maintain steady state operating conditions for each Unit undergoing tests. Where output varies from steady state by more than 2% due to the Purchaser being unable to maintain such steady state conditions during the relevant Performance Test:

(a) that test shall be repeated and the Purchaser shall bear all costs associated therewith; and

(b) the Complex shall be deemed to have been Available in accordance with Clause 6.5 of this Agreement with effect from the conclusion of the relevant Performance Test.

3.6 **Test Metering:** MW output and MWh output during the Performance Test shall be measured using the Commercial Metering System and other instrumentation described and calibrated in accordance with Appendix K. The watt-hour metering and associated instrument transformers will be reviewed for acceptable metering accuracy and calibrated as necessary by 3-C Bulgaria and agreed by the Independent Engineer. There shall be no test tolerances applied to measurement uncertainty.

3.7 **Test Adjustments:** To the extent that the conditions in existence during a Performance Test differ from the heat rate design conditions set forth in Annex F-1 to this Appendix F, 3-C Bulgaria shall correct the results obtained in the Performance Test according to the design correction curves to be provided by 3-C Bulgaria to the Purchaser not later than seven (7) Days prior to conducting the Performance Tests,

including correction factors for circulating water makeup temperature, ambient temperature, relative humidity, Unit power factor, grid frequency determination and other factors in Annex F-1.

3.8 **Reporting:** Within fifteen (15) Days of the receipt by 3-C Bulgaria of the report of the EPC Contractor(s) relating to the completion of each Performance Test, 3-C Bulgaria shall notify the Purchaser whether or not 3-C Bulgaria considers the relevant Performance Test to have been successful. If 3-C Bulgaria considers the Performance Test to be unsuccessful, it may proceed to repeat the tests provided it shall provide the Purchaser and the Independent Engineer with not less than forty-eight (48) hours' notice of such repeat testing. If 3-C Bulgaria considers the Performance Test to be successful, such notification shall be accompanied by a detailed test report, to include test data collected and the calculation of the initial Tested Capacity of Unit 1 or Unit 2 (as the case may be), certified by the Independent Engineer. The initial Tested Capacity shall be the Net Electrical Energy Output metered during the seventy-two (72) hour Performance Test, as corrected pursuant to Paragraph 3.7 above, divided by seventy-two (72) hours. Such initial Tested Capacity of the Unit, may, for the avoidance of doubt be less than the Contracted Capacity of the Unit provided that unless and until 3-C Bulgaria shall de-rate the Unit in accordance with Clause 7.3 of this Agreement, 3-C Bulgaria shall not be relieved from any consequent liability for System Charges following the Date of Commercial Operation or the Date of Full Commercial Operation (as the case may be).

4. RELIABILITY ESTABLISHMENT

4.1 **"Reliability Establishment"** shall mean the operation of Unit 1 following the Date of Commercial Operation and both Units following the Date of Full Commercial Operation, as the case may be, for a period of thirty (30) consecutive Days in full compliance with the Dispatch Instructions of the Purchaser referred to in Paragraph 4.2 below. Such thirty (30) Day period shall commence at any time following Date of Commercial Operation or the Date of Full Commercial Operation, as the case may be, upon 3-C Bulgaria giving the Purchaser not less than seven (7) Days' advance notice in writing.

4.2 **Dispatch Instructions:** During such thirty (30) Day period, the Purchaser shall give Dispatch Instructions in accordance with a dispatch programme to be notified by 3-C Bulgaria to the Purchaser when giving the notice referred to in Paragraph 4.1 (which will include periods of Full Load operation and stable running). If for any reason the Purchaser is unable to issue Dispatch Instructions in accordance with this paragraph 3-C Bulgaria may, in its sole discretion, restart such thirty (30 Days) period.

4.3 **Status of Test Results:** The results of Reliability Establishment shall not affect 3-C Bulgaria's rights under this Agreement nor give rise to any liability of 3-C Bulgaria to the Purchaser hereunder (including System Charges).

5. AVAILABILITY TESTS DURING COMMERCIAL OPERATION

5.1 **Methodology:** The methodology for carrying out Availability Tests during commercial operation shall be the same as for Performance Tests except as specifically provided in this Paragraph 5. The power level at which the testing is to be carried out shall be consistent with the load curves contained in R-5 in Appendix R.

5.2 **Annual Testing:** Beginning with the Calendar Year after the Calendar Year in which the Date of Commercial Operation occurs and every Calendar Year thereafter, unless waived by the Parties in writing, 3-C Bulgaria shall schedule and shall give the Purchaser at least fifteen (15) Days' prior written notice of its intention to perform an Availability Test in respect of a Unit that has entered commercial operation. The test required according to Paragraph 5.3 may at 3-C Bulgaria's option, fulfil the requirement of such annual Availability Test.

5.3 **Tests during Scheduled Outages:** Whenever there has been a Scheduled Outage, it is a requirement to perform an Availability Test at the conclusion of such Scheduled Outage.

5.4 **Testing Methodology:** Availability Tests under Paragraph 5.2 and 5.3 shall be carried out in accordance with a test programme prepared by 3-C Bulgaria and agreed in advance with the System Operator. Such test programme shall take into account the provisions of this Paragraph 5.

5.5 **Test Duration:** Each Availability Test under Paragraph 5.2 and 5.3 shall be conducted for a period of four (4) hours. If, however, during any Availability Test the Purchaser requires a load reduction for the Unit, 3-C Bulgaria may either (i) schedule a new Availability Test, or (ii) incorporate a test dispatch adjustment into the calculation of the Tested Capacity for such test. The Purchaser shall be entitled to witness each Availability Test provided that an Availability Test shall not be invalidated if the Purchaser decides not to witness such test.

5.6 **Test Adjustments:** To the extent that the conditions in existence during the Availability Test differ from the heat rate design conditions set forth in Annex F-1 of this Appendix, 3-C Bulgaria shall correct the results obtained in the Availability Test according to the design correction curves to be provided by 3-C Bulgaria to the Purchaser for the purposes of the Performance Tests, adjusted to take account of heat rate degradation over time.

5.7 **Tested Capacity:** The Net Electrical Energy Output produced during the four (4) hour testing period, as corrected pursuant to Paragraph 5.5 and/or 5.6 above, shall be divided by four (4) hours to calculate the Tested Capacity.

5.8 **Re-Tests:** 3-C Bulgaria may upon the giving of not less than twenty four (24) hours' prior written notification (or such lesser notice as the Parties may agree) conduct one or more re-tests. 3-C Bulgaria may declare any one of such tests to be the Tested Capacity and may cancel any remaining re-tests.

5.9 **Reporting:** 3-C Bulgaria shall submit the test results to the Purchaser within seventy-two (72) hours of completion of a test. The Purchaser shall indicate in writing within seventy-two (72) hours of receipt whether it accepts such test results or whether it has determined that such test results are inaccurate and have not been conducted in accordance with the foregoing procedures. If the Purchaser fails to respond in writing within such seventy-two (72) hour period, it shall be deemed to have accepted the test results submitted by 3-C Bulgaria

5.10 **Costs of Testing:** Each Party shall bear its own costs in connection with the conduct of Availability Tests required under Paragraphs 5.2 or 5.3.

6. ADDITIONAL TESTS DURING COMMERCIAL OPERATION

6.1 **Additional Tests:** Either the Purchaser or 3-C Bulgaria shall be entitled, on not less than twenty-four (24) hours prior written notice, to require that tests (Availability Tests and tests of Ancillary Services) in addition to those provided for under Paragraph 5 above be carried out at any time throughout the Calendar Year for the purpose of proving the performance limits of the Complex. The procedures described in Paragraph 5 above shall regulate the conduct of such tests except where they conflict with the provisions of this Paragraph 6

6.2 **Costs of Testing:** The costs of tests under Paragraph 6.1 shall be borne by 3-C Bulgaria if the Tested Capacity of the Unit determined in the Availability Test, adjusted to take into account variations in the test conditions from the design test conditions as set forth in Annex F-1 of Appendix F, is less than the Declared Capacity for that Unit immediately prior to the relevant test being requested under Paragraph 6.1. In all other cases the cost of the tests shall be borne by the Purchaser and the provisions of Paragraph 5.10 will not apply to such tests.

6.3 **Tested Primary Control Parameters:** Testing of Primary Control parameters (as defined in Appendix G, Paragraph 7.2(a)(iii) shall be carried out Monthly by 3-C Bulgaria based on the Purchaser's methodology and reported in accordance with a proforma agreed between the Purchaser and 3-C Bulgaria.

7. RESOLUTION OF DISPUTES

If the Purchaser disputes any test results submitted by 3-C Bulgaria under this Appendix F, such Dispute shall first be discussed with 3-C Bulgaria to seek a resolution. If a satisfactory resolution of the Dispute cannot be agreed upon by such Parties within seventy-two (72) hours, such Dispute shall be submitted for resolution by an Expert in accordance with the provisions of Clause 18.12 of this Agreement provided, however, that the test results submitted by 3-C Bulgaria shall be deemed accepted until a final decision under Clause 18.12 is reached, at which time any disputed amounts paid by the Purchaser during the period of such Dispute may be taken as a credit by the Purchaser against amounts invoiced subsequently pursuant to Clause 10.1 of this Agreement.

Annex F-1
Heat Rate Design Conditions

Parameter	Value
Ambient air temperature	12.5° C
Relative humidity	73%
Barometric pressure	1.0035 bars
Frequency	50.00 Hz
Power factor	0.85 lagging
Condensate make-up	0%
Design fuel analysis	lignite
Rozov Kladenetz Lake temperature	16° C

The above conditions are based on lignite conforming to the following guaranteed specifications:

Item	Unit	Guaranteed Specification
Ash (air-dried base)	%	35.50
Moisture (as received)	%	55.00
Ash (as received)	%	15.98
Carbon (as received)	%	18.23
Hydrogen (as received)	%	1.54
Oxygen (as received)	%	6.15
Nitrogen (as received)	%	0.32
Combustible Sulphur (as received)	%	2.70
Chlorine (as received)	%	0.08
Calorific value (LHV)	kcal/kg kJ/kg	1410 5910

Item		Unit	Guaranteed Specification
Volatiles		%	60-64
Hygroscopic moisture		%	11
Milling efficiency		per K per guaranteed lignite	0.83 - 1.22 k=1.1
Ash analysis	SiO_2	%	35 - 50
	Al_2O_3	%	16 - 32
	Fe_2O_3	%	7 - 20
	MgO	%	1.5 - 3.5
	CaO	%	2.5 - 5.0
	SO_3	%	2.5 - 15
Ash fusion temperature			
A. In oxidising environment (by Leits) for Analysis 1, 2, 3			
Deformation point		°C	1250
Melting point		°C	1280
Running point		°C	1300
B. In semi-reduction environment (by Bunte-Baum) for Analysis 4			
Deformation point		°C	1050
Melting point		°C	1150
Running point		°C	1200
Density		gr/cub.cm	1.5 - 1.9
Bulk weight		kg/cub.m	700 - 1.000

Annex F-2

Extreme Ambient Conditions recorded in Galabovo region

Ambient Conditions	Values
One time rainfall	107 mm/m^2
Intensive rainfall	5 min 410 l/sec per hectare
	10 min 316 l/sec per hectare
	20 min 225 l/sec per hectare
Absolute maximum temperature	+42.4°C
Absolute minimum temperature	-29.4°C

APPENDIX G
OPERATING PROCEDURES

1. GENERAL

1.1 General Principles:

(a) The Parties shall operate their respective facilities and shall regulate their relations for the purpose of achieving the objectives of this Agreement in compliance with all applicable Legal Requirements including the Bulgarian National Grid Code.

(b) The purpose of this Appendix is to detail the general principles of the operating procedures for co-ordinating the delivery of Net Electrical Energy Output by 3-C Bulgaria from Unit 1 and Unit 2 to the Delivery Point. Nothing in this Appendix shall be construed, by virtue of the absence of a specific reference, as relieving either of 3-C Bulgaria or the Purchaser of:

(i) the responsibility for communicating with the other in a manner that will allow both 3-C Bulgaria and the Purchaser to operate their respective facilities in a safe manner consistent with the terms of this Agreement; or

(ii) otherwise complying with its related obligations under this Agreement.

However, the provisions of this Appendix are intended to reflect what the Parties consider at the date of this Agreement to be operating procedures which are consistent with Prudent Operating Practices.

(c) The operating procedures contained in this Appendix are a requirement of the Purchaser in order that Unit 1 and Unit 2 can be connected to and operate on the Grid System. They are designed to ensure that the Grid System can meet its load demands at all times within specified tolerance limits for voltage and frequency.

1.2 Definitions:

In this Appendix, in addition to the terms defined in Clause 1.1 of this Agreement, the following terms shall have the following meanings:

(a) **"Contracted Annual Scheduled Outages"** with respect to each Unit shall have the meaning set out in Paragraph 1 of Appendix A ($CASO_i$);

(b) **"Declared Net Availability Plan"** means a submission by 3-C Bulgaria of the Availability of Capacity during a specified period.

(c) **"Final Scheduled Outage Plan"** means the final version of a Scheduled Outage Plan in respect of any period, as agreed between 3-C Bulgaria and the Purchaser;

(d) **"Generation Schedule"** means a statement from the Purchaser showing the Dispatch Instructions for each Unit during each Availability Period of the applicable Day when the Unit is in local control, in the form contained in Annex G-6 of this Appendix;

(e) **"Gross Electrical Energy Output"** means all the electrical energy for a Unit produced at the generator terminal and net of the generator's excitation power consumption.

(f) **"Net Electrical Energy Ouput"** has the meaning referred to in Clause 1.1 of this Agreement;

(g) **"Power Factor"** (cos ϕ) means the ratio of the active power (kW) to total power (kVA) in respect of each Unit;

(h) **"Scheduled Outage Plan"** means a proposal in respect of the timing and duration of Scheduled Outages for each Unit during specified periods.

2. TELEPHONIC COMMUNICATIONS

2.1 Primary communication shall take place between the System Operator's dispatch control centre in Sofia and the Complex's central control room.

2.2 All communications between the Purchaser and the Complex shall be in Bulgarian Language.

2.3 The method of dispatch communication with the Complex for local control will be by telephone.

2.4 The Purchaser shall, at its own cost, maintain telephone services for use between the System Operator's dispatch control centre and 3-C Bulgaria's control room located at the Complex.

2.5 3-C Bulgaria and the Purchaser shall each notify the other in writing of its point of contact and prior to changing any previously established point of contact.

2.6 3-C Bulgaria and the Purchaser will each notify the other of the names of persons authorised to communicate with the other Parties for the purposes of operational communication and what information they are authorised to communicate.

2.7 All telephone communications between the Complex and the Purchaser will be automatically recorded and logged by the System Operator. Recordings will be retained in safe custody for a minimum period of three (3) Months.

(f) such other information as may be reasonably required by the Purchaser, any Bulgarian Authority or other provisions of this Agreement.

11.2 The log of dispatch orders and maintenance activities carried out shall be kept for inspection by the Purchaser on an annual basis or following non-compliance by 3-C Bulgaria with the requirements for Ancillary Services or in respect of normal Dispatch Instructions. This log shall be available to the Purchaser and the Purchaser shall have the right to make copies of any section of the log. Activities recorded in the log shall be as reasonably required by the Purchaser. The log shall be retained for the duration of the Term of this Agreement.

12. EMPLOYMENT OF QUALIFIED PERSONNEL

12.1 3-C Bulgaria shall only employ personnel (management, supervisory and otherwise) who are adequately qualified and trained and who have such experience as is necessary and appropriate for operating, maintaining and monitoring the Complex and for co-ordinating operations of the Complex with the Grid System. 3-C Bulgaria shall ensure that their personnel are on duty at the Complex at all times, twenty four (24) hours a Day and seven (7) Days a Week commencing with the Commissioning Start Date.

13. ABNORMAL CONDITIONS

13.1 As such information becomes known, 3-C Bulgaria shall immediately notify the Purchaser of any abnormal operating conditions with respect to the electrical generation equipment of 3-C Bulgaria and the Purchaser shall immediately notify 3-C Bulgaria of any abnormal condition with respect to the Grid System's integrity.

13.2 3-C Bulgaria shall co-operate with the Purchaser in developing emergency procedures for the Complex including recovery from a local or widespread electrical blackout and voltage reduction in order to effect load curtailment and shall comply with such emergency procedures. 3-C Bulgaria shall make technical references available to the Purchaser concerning Start-Up times and minimum load-carrying ability.

13.3 3-C Bulgaria shall, during an emergency and upon request by the Purchaser, supply such power as the Complex is able to generate and as the Purchaser is able to receive, provided, however, that prior to the Date of Commercial Operation/Date of Full Commercial Operation 3-C Bulgaria shall not be obligated to supply such power if doing so would materially delay the completion of construction, testing or Commissioning for a Unit. In the event of a request by the Purchaser prior to the Date of Commercial Operation, 3-C Bulgaria shall use all reasonable efforts to comply with any such request without materially delaying construction or the testing of the Complex.

13.4 The response time for the Complex to meet emergency instructions shall be agreed from time to time between the Purchaser and the Complex management. As soon as possible after receiving the emergency instruction, 3-C Bulgaria shall notify the Purchaser if it cannot meet the previously agreed response time.

14. COMPLIANCE WITH TECHNICAL LIMITS

14.1 Notwithstanding any other provision of this Agreement there shall be no requirement for the Complex to operate outside the Technical Limits, as defined in Appendix C and other technical limits agreed upon.

14.2 3-C Bulgaria shall operate the Units with all their respective critical protective equipment and devices in-service. 3-C Bulgaria shall make every reasonable effort to schedule maintenance, testing and calibration of 3-C Bulgaria protective devices in accordance with the requirements of the Grid System.

14.3 The Purchaser shall be responsible for the operation and maintenance of the protective relay systems within the Delivery Point and shall operate such facilities with all their respective critical protective equipment and devices in service.

14.4 (a) The Purchaser shall notify 3-C Bulgaria, without delay, of the loss of any of the Purchaser's protective relay systems or associated ancillary equipment which may affect the proper operation of the protective relays of 3-C Bulgaria, safety of the equipment of 3-C Bulgaria and/or personnel or the reliability of the Complex. In the event that the loss of any of the Purchaser's protective relay systems within the Delivery Point impacts operations, safety or reliability of the Complex, 3-C Bulgaria may disconnect the affected equipment of 3-C Bulgaria. A reduction in Net Electrical Energy Output of the Complex in these circumstances shall not be considered to be a loss of Availability of the Complex.

(b) 3-C Bulgaria shall notify the Purchaser, without delay, of the loss of any of 3-C Bulgaria's protective relay systems or associated ancillary equipment which may affect the proper operation of the protective relays of the Purchaser, safety of the equipment of the Purchaser and/or personnel or the reliability of the Grid System. In the event that the loss of any of 3-C Bulgaria's protective relay systems within the Delivery Point impacts operations, safety or reliability of the Grid System, the Purchaser may disconnect the affected equipment of the Purchaser.

15. MAINTENANCE AND CALIBRATION

15.1 The general principles for testing and calibration of protective devices are laid out below. However, the Parties shall agree detailed procedures to cover this before the start of Commissioning of each Unit.

15.2 3-C Bulgaria shall notify the Purchaser in writing at least 14 Days prior to any scheduled testing and calibration of the protective devices of 3-C Bulgaria. The notice shall include the proposed schedule of 3-C Bulgaria and a listing of the individual protective devices to be tested and calibrated and the reasons for such tests or calibration.

15.3 The Purchaser shall respond to such notification within 7 Days of receipt thereof and shall advise 3-C Bulgaria of any potential scheduling conflict or operational objection which may preclude testing and calibration of the protective devices of 3-C Bulgaria.

3-C Bulgaria shall adjust the proposed schedule of 3-C Bulgaria, as reasonably requested by the Purchaser.

15.4 Except as permitted in Paragraph 13.4 above, immediately prior to removing any of the protective devices of 3-C Bulgaria from operation, 3-C Bulgaria shall contact the Purchaser to request permission to carry out a test or calibration. The Purchaser shall grant such permission when conditions allow. Except as permitted in Paragraph 13.4 above, 3-C Bulgaria shall not remove any of the protective devices of 3-C Bulgaria from operation without the consent of the Purchaser.

15.5 Immediately prior to any of the protective devices of 3-C Bulgaria being returned to normal operation, 3-C Bulgaria shall advise the Purchaser which shall grant permission where appropriate. 3-C Bulgaria shall confirm to the Purchaser when the protective device has been returned to normal operation.

15.6 After any of the protective devices of 3-C Bulgaria has been tested and calibrated, 3-C Bulgaria shall retain and make available for the Purchaser's review copies of the calibration and test reports.

15.7 The settings for any protective relays shall not be changed by either the Purchaser or 3-C Bulgaria without the prior consent of both Parties.

16. MAINTENANCE PROCEDURES

161 3-C Bulgaria will not perform any energised maintenance on a Unit that may adversely impact the Availability of that Unit without prior permission from the Purchaser.

16.2 3-C Bulgaria shall not perform any unscheduled de-energised maintenance on any equipment which could electrically connect with the Grid System without prior permission from the Purchaser.

16.3 3-C Bulgaria shall declare any period which requires a reduction in generating capability due to maintenance of any sort which is instigated by 3-C Bulgaria.

16.4 Where either the Purchaser or 3-C Bulgaria requires to undertake maintenance on a piece of plant or apparatus which would require the other to take precautions to maintain safety whilst that maintenance is carried out, both Parties shall proceed on a mutually agreed basis.

ANNEX G-1: ANNUAL COMMERCIAL PLAN

This Annual Commercial Plan is made between:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD** (as "**Purchaser**"); and

(2) [ ] (as "**3-C Bulgaria**");

for the period from 1 January [*Calendar Year*] to 31 December [*Calendar Year*] ("**Calendar Year 1**") as a supplement to the Power Purchase Agreement signed between the Purchaser, 3-C Bulgaria and Consolidated Continental Commerce Limited (hereinafter: "**PPA**") to enable electricity demand to be reliably satisfied in a technically and economically optimum manner, the Grid System to be controlled and generation to be reconciled with consumer demand.

On the basis of the PPA, 3-C Bulgaria shall be available to the Grid System with the equipment and facilities owned by it and shall generate electricity and the Purchaser shall accept the Net Electrical Energy Output, use such services and shall pay for them as follows:

ITEM		UNIT 1	UNIT 2
1. Availability			
1.1 Contracted Capacity of 3-C Bulgaria at start of Calendar Year 1 in the attached Schedule:	MWh		
1.2 Surplus Capacity.	MWh		
1.3 Availability for Calendar Year 1 is shown broken down for each Month in Calendar Year 1 in the attached Schedule			
2. Net Electrical Energy Output			
2.1 Total Net Electrical Energy Output planned to be dispatched monthly during Calendar Year 1:	MWh		
3. Ancillary Services			
For the duration of this Agreement 3-C Bulgaria shall provide the following Ancillary Services to the Purchaser:			
- 3.1 Participation in Primary Control	MW		
- 3.2 Participation in Secondary Control	MW		
- 3.3 Ancillary Services for Calendar Year 1 are shown broken down for each Month in Calendar Year 1 in the attached Schedule			
- 3.4 Excess Shut-Down and Start-Up Cycles planned for Calendar Year 1			

4. Maintenance scheduling			
The Final Scheduled Outage Plan for Calendar Year 1 is as shown in the attached Schedule			

The Schedule to this Plan sets down the Final Scheduled Outage Plan for the five Calendar Years commencing with Calendar Year 1 including planned Availability of each Unit.

Sofia ..... [Date]

.....

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

.....

[3-C BULGARIA]

ANNUAL COMMERCIAL PLAN
SCHEDULE I: FINAL SCHEDULED OUTAGE PLAN

FOR CALENDAR YEAR COMMENCING 1ST JANUARY [YYYY] (Calendar Year 1)
Non-Binding Estimate of Availability

Period Commencing	Period Ending	Unit 1				Unit 2			
		Availability (MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity	Availability (MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity
January 1st	January 31st								
February 1st	February 29th								
March 1st	March 31st								
April 1st	April 30th								
May 1st	May 31st								
June 1st	June 30th								
July 1st	July 31st								
August 1st	August 31st								
September 1st	September 30th								
October 1st	October 31st								
November 1st	November 30th								
December 1st	December 31st								

FOR CALENDAR YEAR COMMENCING 1ST JANUARY [YYYY] (Calendar Year 2)
Non-Binding Estimate of Availability

Period Commencing	Period Ending	Unit 1				Unit 2			
		Availability(MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity	Availability (MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity
January 1st	January 31st								
February 1st	February 29th								
March 1st	March 31st								
April 1st	April 30th								
May 1st	May 31st								
June 1st	June 30th								
July 1st	July 31st								
August 1st	August 31st								
September 1st	September 30th								
October 1st	October 31st								
November 1st	November 30th								
December 1st	December 31st								

FOR CALENDAR YEAR COMMENCING 1ST JANUARY [YYYY] (Calendar Year 3)
Non-Binding Estimate of Availability

Period Commencing	Period Ending	Unit 1				Unit 2			
		Availability(MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity	Availability (MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity
January 1st	January 31st								
February 1st	February 29th								
March 1st	March 31st								
April 1st	April 30th								
May 1st	May 31st								
June 1st	June 30th								
July 1st	July 31st								
August 1st	August 31st								
September 1st	September 30th								
October 1st	October 31st								
November 1st	November 30th								
December 1st	December 31st								

FOR CALENDAR YEAR COMMENCING 1st JANUARY [YYYY] (Calendar Year 4)
Non-Binding Estimate of Availability

Period Commencing	Period Ending	Unit 1				Unit 2			
		Availability(MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity	Availability (MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity
January 1st	January 31st								
February 1st	February 29th								
March 1st	March 31st								
April 1st	April 30th								
May 1st	May 31st								
June 1st	June 30th								
July 1st	July 31st								
August 1st	August 31st								
September 1st	September 30th								
October 1st	October 31st								
November 1st	November 30th								
December 1st	December 31st								

FOR CALENDAR YEAR COMMENCING 1st JANUARY [YYYY] (Calendar Year 5)

Non-Binding Estimate of Availability

Period Commencing	Period Ending	Unit 1				Unit 2			
		Availability(MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity	Availability (MWh)	Scheduled Outages (MWh)	Ancillary Services	Contracted Capacity
January 1st	January 31st								
February 1st	February 29th								
March 1st	March 31st								
April 1st	April 30th								
May 1st	May 31st								
June 1st	June 30th								
July 1st	July 31st								
August 1st	August 31st								
September 1st	September 30th								
October 1st	October 31st								
November 1st	November 30th								
December 1st	December 31st								

ANNEX G-2: CALENDAR YEAR AHEAD DEMAND NOTIFICATION
(PARAGRAPH 5.2)
(Notification to be forwarded not later than 30th September prior to start of Calendar Year)

From: NATSIONALNA ELEKTRICHESKA KOMPANIA EAD
To: AES-3-C MARITZA EAST 1 EOOD
Date: *[DATE TRANSMITTED TO AES-3-C MARITZA EAST 1 EOOD]*
Subject: CALENDAR YEAR AHEAD DEMAND NOTIFICATION FOR CALENDAR YEAR COMMENCING 1ST JANUARY [I]

Period Commencing	Period Ending	Net Electrical Energy Output Requirement (MWh)		Minimum Monthly Quantity (MWh)
		Unit 1	Unit 2	Complex
January 1st	January 31st			
February 1st	February 29th			
March 1st	March 31st			
April 1st	April 30th			
May 1st	May 31st			
June 1st	June 30th			
July 1st	July 31st			
August 1st	August 31st			
September 1st	September 30th			
October 1st	October 31st			
November 1st	November 30th			
December 1st	December 31st			
Total [type Calendar Year]				

Submitted By: _____

Approved By: _____

ANNEX G-3: MONTH AHEAD DEMAND NOTIFICATION(PARAGRAPH 5.3)
(Notification to be forwarded not later than 14 Days prior to start of each Month)

From: NATSIONALNA ELEKTRICHESKA KOMPANIA EAD
To: AES-3-C MARITZA EAST 1 EOOD
Date: *[DATE TRANSMITTED TO AES-3-C MARITZA EAST 1 EOOD]*
Subject: MONTH AHEAD DEMAND NOTIFICATION FOR MONTH COMMENCING 1ST [MM, YYYY]

Period Commencing Day of Month	Net Electrical Energy Output Requirement (MWh)
1st Day	
2nd Day	
3rd Day	
4th Day	
5th Day	
6th Day	
7th Day	
8th Day	
9th Day	
10th Day	
11th Day	
12th Day	
13th Day	
14th Day	
15th Day	
16th Day	
17th Day	
18th Day	
19th Day	
20th Day	
21st Day	
22nd Day	
23rd Day	
24th Day	
25th Day	
26th Day	
27th Day	
28th Day	
29th Day	
30th Day	
31st Day	

Submitted By:_____ **Approved By:**_____

ANNEX G-4: WEEK AHEAD DEMAND NOTIFICATION (PARAGRAPH 5.4(a))
(Notification to be forwarded by 12.00 Noon on Friday prior to start of each Week)

From: NATSIONALNA ELEKTRICHESKA KOMPANIA EAD
To: AES-3-C MARITZA EAST 1 EOOD
Date: *[DATE TRANSMITTED TO AES-3-C MARITZA EAST 1 EOOD]*
Subject: WEEK AHEAD DEMAND NOTIFICATION FOR WEEK COMMENCING [DD,MM,YYYY]

Period Commencing Day of Week	Net Electrical Energy Output Requirement (MWh)
1st Day	
2nd Day	
3rd Day	
4th Day	
5th Day	
6th Day	
7th Day	

Submitted By: _____

Approved By: _____

ANNEX G-5: DAY AHEAD DECLARED CAPACITY NOTIFICATION (PARAGRAPH 5.4(c))

(notification to be forwarded to System Operator by 12:00 Noon each Day for Day commencing 12 hours thereafter)

From: AES-3-C MARITZA EAST 1 EOOD
To: NATSIONALNA ELEKTRICHESKA KOMPANIA EAD
Date: *[DATE TRANSMITTED TO SYSTEM OPERATOR]*
Subject: DAY AHEAD DECLARED CAPACITY NOTIFICATION FOR DAY COMMENCING 00:00 TO 24:00 ON *[DATE]*

Period Commencing	Period Ending	Declared Capacity (MW)	
		Unit 1	Unit 2
00:00	01:00		
01:00	02:00		
02:00	03:00		
03:00	04:00		
04:00	05:00		
05:00	06:00		
06:00	07:00		
07:00	08:00		
08:00	09:00		
09:00	10:00		
10:00	11:00		
11:00	12:00		
12:00	13:00		
13:00	14:00		
14:00	15:00		
15:00	16:00		
16:00	17:00		
17:00	18:00		
18:00	19:00		
19:00	20:00		
20:00	21:00		
21:00	22:00		
22:00	23:00		
23:00	24:00		

Submitted By: _____

Approved By: _____

ANNEX G-6: (DAY AHEAD) GENERATION SCHEDULE (PARAGRAPH 5.5(b))

(Notification to be forwarded not later than 16:00 each Day for Day commencing 8 hours thereafter when Units are in local control)

From: NATSIONALNA ELEKTRICHESKA KOMPANIA EAD
To: AES-3-C MARITZA EAST 1 EOOD
Date: *[DATE TRANSMITTED TO AES-3-C MARITZA EAST 1 EOOD]*
Subject: DAY AHEAD GENERATION SCHEDULE FOR DAY COMMENCING 00:00 to 24:00 ON *{Date}*

Period Commencing	Period Ending	Dispatch Instruction (MW)	
		Unit 1	Unit 2
00:00	01:00		
01:00	02:00		
02:00	03:00		
03:00	04:00		
04:00	05:00		
05:00	06:00		
06:00	07:00		
07:00	08:00		
08:00	09:00		
09:00	10:00		
10:00	11:00		
11:00	12:00		
12:00	13:00		
13:00	14:00		
14:00	15:00		
15:00	16:00		
16:00	17:00		
17:00	18:00		
18:00	19:00		
19:00	20:00		
20:00	21:00		
21:00	22:00		
22:00	23:00		
23:00	24:00		

Submitted By: _____

Approved By: _____

APPENDIX H
SITE DESCRIPTION

1. GENERAL

The general location of the Site is shown edged in red on Diagram R-6 in Appendix R entitled "Location of Maritza East Site" (the "**Plan**"). Access to the Site is by road and rail.

2. REAL ESTATE RIGHTS

2.1 The land area comprising the Site includes:

(a) Complex land: the Complex will be on land within the existing TPP;

(b) Land for lignite delivery storage and handling: this land will be part of the old reclaimed ash pond #1 and #2 and undeveloped land belonging to the Purchaser and/or Brikel EAD north west of the Complex;

and will otherwise be as specified in the Site Agreement.

2.2 The Purchaser will secure rights of way (or equivalent rights of access and/or use) in the following to enable it to perform its obligations under this Agreement, each marked in green on the Plan:

(a) Land for transmission lines: new transmission lines will be built by the Purchaser. The Purchaser will arrange for all land requirements for the transmission line corridor.

(b) Land for discharge of emergency wastewater and uncontaminated runoff: this strip of land will run from the Complex to the Sazlijka River.

(c) Land for off-site 400kV switchyard

3. METEOROLOGY

3.1 Average annual conditions are as follows:

(a) Ambient temperature: 12.5 C

(b) Relative humidity: 73%

3.2 Site ambient temperature varies from –23C to +40C.

3.3 Site elevation is 106.5 m above sea level. Average Site barometric pressure is 1.0035 bars.

3.4 The prevailing wind direction is north-east, with an annual average wind velocity of 2.5 m/s.

4. PROTECTED SITES AND AREAS

4.1 There is a Thracian ruin buried on the Site near the existing lignite piles. The Purchaser shall be responsible for ensuring that the existence of and/or any actions of Bulgarian Authorities or Legal Requirements connected with this or similar archaeological remains or artefacts at or near the Site or related areas necessary for the Project do not interfere with or delay implementation of the Project in accordance with the timetable agreed by the Parties in accordance with this Agreement.

5. SITE GEOLOGY

5.1 The geology of the land area affected by the Complex is summarised as follows:

(a) Complex land: the Complex will be built over an area underlain with old foundations of two 150MWe units which have been demolished.

(b) Land for lignite receiving, storage and handling: this land includes a layer of pulverised lignite ash.

(c) Transmission line corridor: the geology of this land will be the Purchaser's responsibility.

(d) Wastewater and runoff discharge: this land corridor is expected to be similar to the land on which the TPP was built.

6. SEISMIC CHARACTERISTICS

6.1 The Site is seismically active - Design will be in accordance with the Bulgarian Code for Design and Structures in Seismic Regions, applying the respective factors for the seismic region of the Complex.

APPENDIX I
COMPLEX TRANSFER PROCEDURES

In the event that the Complex is to be transferred from 3-C Bulgaria to the Purchaser under Clause 16.2, the following provisions shall apply to the Complex Transfer:

1. PROPERTY TO BE TRANSFERRED

1.1 3-C Bulgaria and/or its Affiliates will assign and/or transfer and/or deliver to the Purchaser and the Purchaser will take the assignment and/or transfer of and/or delivery from 3-C Bulgaria or its Affiliates in respect of the following:

(a) all stock at the Complex comprising stores, machinery, plant and equipment, components, spares, furniture, stationery, vehicles and all other assets used or located at the Complex;

(b) the agreements or orders between 3-C Bulgaria/its Affiliates and its suppliers for goods and services (to the extent 3-C Bulgaria and/or its Affiliates are legally able to transfer such rights) relating to and entered into for purposes connected with the operation and/or maintenance of the Complex including, for the avoidance of doubt, Fuel Supply Agreements, Limestone Supply Agreement(s) and the Waste Disposal Agreement;

(c) the benefit of all rights, guarantees and warranties of 3-C Bulgaria/its Affiliates against manufacturers and suppliers (to the extent 3-C Bulgaria and/or its Affiliates are legally able to transfer such rights) relating to the Complex or any part thereof or thing therein;

(d) the operation and maintenance records relating to the Complex and all other documents, logs, certificates, manuals and specialised tools relating to its operation and maintenance; and

(e) all intellectual property rights held by 3-C Bulgaria relating exclusively to the Complex (to the extent 3-C Bulgaria is legally able to transfer such rights);

("Transferred Property").

1.2 3-C Bulgaria will promptly settle any costs incurred by it or its Affiliates in respect of outstanding liabilities under any of the agreements, orders, warranties or other matters assigned under Paragraph 1.1 above. 3-C Bulgaria shall indemnify the Purchaser against all costs, claims and liabilities incurred by 3-C Bulgaria or its Affiliates arising in respect of the Transferred Property and the operation and maintenance of the Complex prior to the Complex Transfer.

1.3 Insofar as any of the matters referred to in Paragraph 1.1 above require the consent of a third party 3-C Bulgaria will use its reasonable efforts to obtain such consent.

1.4 The Purchaser shall indemnify 3-C Bulgaria against all costs, claims and liabilities incurred by 3-C Bulgaria arising from the exercise by the Purchaser of its rights in respect of the Transferred Property and the operation and maintenance of the Complex

subsequent to the Complex Transfer.

1.5 Each of the Parties agrees to (and 3-C Bulgaria shall procure that its Affiliates will) execute and deliver all documents, papers and instruments and to do and perform all such further acts and things, as shall be necessary or convenient to effect the Complex Transfer.

2. EXCLUDED PROPERTY

2.1 3-C Bulgaria/its Affiliates will not assign or transfer to the Purchaser:

(a) any book or other debts due to 3-C Bulgaria at the date of Transfer Closing;

(b) cash in hand or at a bank or other financial institutions;

(c) any amounts recoverable in respect of taxation including Value Added Tax relating to the Complex for periods ending on or before Transfer Closing or, as the case may be, that part of any relevant period up to the date of Complex Transfer;

(d) the rights of 3-C Bulgaria/its Affiliates in any plant and equipment which is not owned by 3-C Bulgaria/its Affiliates but is leased, hired or otherwise held by 3-C Bulgaria/its Affiliates on terms other than ownership; or

(e) the Financing Agreements, the Project Services Agreement and the O&M Agreement (if this is with an Affiliate of 3-C Bulgaria);

("Excluded Property").

3. FUEL

Title to Fuel and limestone purchased by 3-C Bulgaria or its Affiliates (whether held at the Complex or not) shall be transferred to the Purchaser. The Purchaser shall reimburse 3-C Bulgaria for the cost of such Fuel and limestone paid or payable to the suppliers thereof.

4. COMPLEX PERFORMANCE

4.1 3-C Bulgaria will warrant to the Purchaser that subject to any adjustments to the Technical Limits as a consequence of any provisions of this Agreement (in which case the following parameters shall be similarly adjusted), as at Transfer Closing:

(a) the Complex will be able to achieve a maximum Full Load (based on 300 MW net per Unit) heat rate of not more than 10322 kJ/kWh (on a Complex basis with corresponding adjustments for a Unit basis), adjusted for ageing according to the degradation curves contained in Appendix R-8A and R-8B; and

(b) environmental protection equipment performance installed at the Complex shall comply with all Environmental Requirements except where specific derogations have been obtained during the life of the Project;

provided that such warranties shall only apply once a Unit has entered into

commercial operation.

4.2 3-C Bulgaria will pay liquidated damages in respect of a breach of either of the warranties contained in Paragraph 4.1 above as follows:

(a) € 2,064,000 * ((15-t)/15) per 1.0% in Full Load (based on 300 MW net per Unit) heat rate above 10322kJ/kWh, adjusted for ageing according the degradation curves contained in Appendix R-8A and R-8B, where t is the number of Years (or fraction thereof) since the Effective Date; and

(b) remedial works shall be required of 3-C Bulgaria to correct any shortfall in environmental performance.

4.3 The aggregate liability of 3-C Bulgaria under this Appendix I including in respect of liquidated damages payable under Paragraph 4.2 above shall be not be greater than Euro ten million (€ 10,000,000).

4.4 Tests to assess compliance of the Complex with the warranties set out in Paragraph 4.1 above shall be completed before Transfer Closing. Reference conditions and procedures for the tests shall be the same as during Commissioning. 3-C Bulgaria shall procure that the contractor under the O&M Agreement will co-operate with the Purchaser or its agents in scheduling and conducting such tests and in making plant and apparatus available for testing when required.

5. SITE AND COMPLEX TRANSFER PROVISIONS

5.1 The Site shall be surveyed by the Purchaser prior to Transfer Closing to establish the extent of contamination (if any) occurring since the Effective Date.

5.2 The Complex shall be in a generally sound condition with plant items weather proof, roads made up, lagging intact and no plant item shall have an obvious leak.

5.3 3-C Bulgaria shall ensure that on Transfer Closing the condition of the Site and Complex comply with Legal Requirements relating to health and safety.

5.4 Prior to Transfer Closing the Purchaser and 3-C Bulgaria or the contractor under the O&M Agreement shall complete a walk-round inspection for general condition and safety. They shall jointly agree what improvements are reasonably required for the Complex to comply with the requirements of this Appendix I and 3-C Bulgaria shall use all reasonable efforts to complete such works prior to Complex Transfer. In respect of such works which have not been completed to the reasonable satisfaction of the Purchaser by Transfer Closing, 3-C Bulgaria shall be entitled to complete such works during the three (3) Months following Complex Transfer, failing which the Purchaser shall be entitled to complete such works and to obtain reimbursement of its proper and reasonable costs incurred in carrying out such works from 3-C Bulgaria (such works to be concluded within six (6) Months of Complex Transfer.

5.5 Following a Complex Transfer, 3-C Bulgaria shall and shall procure that its Affiliates shall not engage in any acts or omissions which will adversely affect the right of the Purchaser to full possession, use and quiet enjoyment of the Complex and the Site.

6. INSPECTIONS

6.1 3-C Bulgaria shall inform the Purchaser of the requirements for any insurance inspections or inspections pursuant to Legal Requirements of any plant items which fall due during the three Months following the Complex Transfer.

7. TRAINING

7.1 3-C Bulgaria shall procure that the contractor under the O&M Agreement trains a sufficient number of people, nominated by the Purchaser, to take the Complex over and to operate and maintain the Complex in the period immediately following Complex Transfer. The number of people to be trained shall not exceed twenty and the number of training Days shall not exceed five.

8. REMOVAL OF EQUIPMENT NOT BEING TRANSFERRED

8.1 Equipment, apparatus, temporary buildings and other movable property which are not being transferred shall be removed by 3-C Bulgaria within three (3) Months after Complex Transfer. Where this is not done the Purchaser shall have the right to dispose of such property and to deduct its reasonable costs from the proceeds of any sale.

9. TESTS ETC.

9.1 The costs of all tests, surveys and audits required prior to Complex Transfer, shall be borne by the Purchaser. Any Dispute relating to the conduct or results of the tests or the work required to improve the condition of the Complex shall be resolved in accordance with Clause 18 of this Agreement.

10. NOTIFICATION

10.1 Following the Complex Transfer, on receiving any notices, correspondence, information or enquiries in relation to the Transferred Property or employees at the Complex whose contracts of employment are transferred to the Purchaser, 3-C Bulgaria shall immediately pass the same or copies thereof to the Purchaser.

10.2 Following the Complex Transfer, on receiving any notices, correspondence, information or enquiries in relation to the Excluded Property or the period of 3-C Bulgaria's ownership of the Complex, the Purchaser shall immediately pass the same or copies thereof to 3-C Bulgaria.

APPENDIX J
GOVERNMENTAL APPROVALS

Part 1: Governmental Approvals to be obtained by 3-C Bulgaria	Part 1: Date by which Governmental Approvals are to be issued
1.1 Construction Permit pursuant to the Law for the Structure of the Territories (S.G. No 1 of 2001).	6 Months from the Reference Date.
1.2 Construction Permit pursuant to the Energy Act (so long as this is required under the Energy Act).	6 Months from the Reference Date.
1.3 Preliminary Operating Permit pursuant to the Energy Act.	6 Months from the Reference Date.
Part 2: Governmental Approvals to be obtained by the Purchaser	**Part 2: Date by which Governmental Approvals are to be issued**
2.1 Permits relating to Interconnection Facilities pursuant to relevant Legal Requirements	6 Months from the Reference Date.
2.2 400kV Transmission Line permits pursuant to relevant Legal Requirements	6 Months from the Reference Date.

APPENDIX K
MEASUREMENT AND TESTING PROCEDURES

1. GENERAL

1.1 All electrical measurements used for settlements of payments including, but not limited to measuring of Tested Capacity, Actual Available Capacity and Net Electrical Energy Output, shall be performed by means of a metering system (the "**Commercial Metering System** ") purchased, installed, owned and maintained by the Purchaser. 3-C Bulgaria, at its cost, shall procure, install, own and maintain a metering system for back-up purposes (the "**Back-Up Metering System**") and a metering system for measuring each generators' output (the "**Gross Metering System**"). The Commercial Metering System, the Gross Metering System and the Back-up Metering System are together called the "**Metering System**".

1.2 Instruments, electric meters and measuring transformers used for the Metering System are defined as "**Metering Devices**".

1.3 The interconnection points for the Metering System are shown on Diagram R-4 in Appendix R.

1.4 The design, construction and acceptance of each part of the Metering System shall be carried out pursuant relevant Legal Requirements including the Regulation on Interconnection to the Transmission and Distribution Networks of the Producers and Consumers (Enacted by Ministerial Ordinance No. 76 of 9 May 2000, promulgated in State Gazette No. 40 of 16 May 2000, in force as of 17 June 2000).

1.5 The Parties agree to comply with Bulgarian Standards in respect of terminology, technical requirements, methods of testing and methods of calibration and checking of Metering Devices. Whenever the Bulgarian Standards do not specify certain qualities and procedures as mentioned above, the Metering Devices shall be subject to IEC recommendations.

1.6 Metering Devices shall meet at least the following accuracy requirements:

Metering Device	Current transformers	Voltage transformers	Meters
Accuracy Class	0.2%	0.2%	Active class 0.2% reactive class 0.5% (see Note 1)

Note 1: The accuracy of the Metering Devices will be equivalent to that of the Alpha AINR (TL) meter manufactured by ABB.

1.7 Metering Devices of 0.2% accuracy shall be tested/calibrated by means of certified calibration equipment having an accuracy class 0.05%.

1.8 All calibration equipment used for testing of Metering Devices and the entire Metering System must have a valid calibration certificate issued by the relevant Bulgarian Authority at all relevant times.

1.9 The Commercial Metering System, the Back-Up Metering System and the Gross Metering System readings are to be recorded automatically every 1 hour and such readings will also be available to the Purchaser.

1.10 All tariff meters, associated marshalling cabinets, panels and communication equipment will be located in the air-conditioned rooms within the Complex.

2. ARRANGEMENT AND INSTALLATION

2.1 Prior to the installation by 3-C Bulgaria of the Back-Up Metering System and Gross Metering System equipment, 3-C Bulgaria will deliver to the Purchaser the protection scheme and the metering plan for the Complex. The Purchaser will provide reasonable written comments on the protection scheme and the metering plan within thirty (30) Days of their receipt. 3-C Bulgaria will incorporate the Purchaser's reasonable comments received during such thirty (30) Day period into the protection scheme and the metering plan or will discuss with the Purchaser to arrive at a mutually agreed scheme and deliver final copies to the Purchaser.

2.2 The Purchaser will approve the final scheme and plan within fifteen (15) Days or notify 3-C Bulgaria that it does not approve the scheme and plan, giving its reasonable reasons therefor (whereupon any further delay shall be deemed a Purchaser Related Event). If the Purchaser does not give reasonable reasons for not approving the scheme and plan within such fifteen (15) Day period, the Purchaser shall be deemed to have approved such scheme and plan. The Purchaser will reimburse 3-C Bulgaria for all costs incurred in connection with a change in the scheme at the request of the Purchaser after the lapse of such fifteen (15) Day period.

2.3 The Purchaser will complete the design and commence construction of the Commercial Metering System using equipment provided by the Purchaser such that the installation shall be completed not later than fifteen (15) Days prior to the scheduled date for importing Start-Up electricity required for Commissioning of the Complex. The Purchaser shall be notified not less than fifteen (15) Days prior to, and shall have the right to observe, the installation of the Back-Up Metering System by 3-C Bulgaria. Before installation all Metering Devices must pass initial calibration tests required by relevant Legal Requirements and be in possession of an accuracy certificate issued by relevant Bulgarian Authority.

2.4 If the equipment for the Commercial Metering System is not provided by the Purchaser within a reasonable time taking into account the Project Schedule, then 3-C Bulgaria may purchase and install the required equipment and the Purchaser shall reimburse 3-C Bulgaria for all reasonable costs incurred by 3-C Bulgaria associated with such purchase and/or arising from any delay to the Project Schedule resulting from the delayed provision of the Commercial Metering System equipment by the Purchaser including financing costs for the Project during such delay (and such delay shall be deemed a Purchaser Related Event). In addition to an invoice for reimbursement, 3-C Bulgaria shall provide reasonable documentation of the costs incurred for the purchase of the Commercial Metering System components. Payment shall be invoiced by 3-C

Bulgaria as part of the first Invoice to be submitted to the Purchaser pursuant to Clause 10.1 of this Agreement.

3. INSPECTION AND TESTING

3.1 The Metering Devices and the entire Metering System shall be tested on a regular basis according to Legal Requirements and at the cost and responsibility of the Party owning the relevant device/system. If either the Purchaser or 3-C Bulgaria plans to perform tests of its Metering Devices, it shall notify the other about its testing program at least fourteen (14) Days before the planned tests to enable representatives of the other to witness such tests.

3.2 The Parties shall also test their own Metering System at any other time reasonably requested by the other Party, such additional testing to be at the requesting party's cost unless the test indicates that the tested Metering System is inaccurate by more than 0.2%, in which case the owner of the Metering System shall bear the cost of the additional test. Both Parties may have a representative present during any such testing, as well as during any inspection of the tested Metering System or adjustment thereof.

3.3 Either of the Purchaser and 3-C Bulgaria may request in writing a joint on-site testing of the Metering Devices, indicating the required scope of such test. The testing shall be carried out in the presence of representatives of both the Purchaser and 3-C Bulgaria. The Purchaser shall have a right to access the Metering Systems at any time.

3.4 When on the Site, the Purchaser shall comply with all reasonable instructions of 3-C Bulgaria and its contractors and, notwithstanding any other provision in this Agreement to the contrary, shall indemnify and hold 3-C Bulgaria and its contractors harmless from any loss or damage sustained by virtue of the Purchaser's negligence or Wilful Misconduct in the performance of its obligations.

4. TEST PROCEDURE

4.1 Before first installation all Metering Devices must pass initial tests as required by relevant Legal Requirements and be in possession of a calibration certificate issued by relevant Bulgarian Authorities. 3-C Bulgaria and the Purchaser shall also agree on testing procedures for the Metering System.

4.2 All pre-installation and verification checks required prior to the Commissioning of each Unit shall be performed at the cost of the owner of the relevant part of Metering System, excluding any costs of witnessing such testing by any other Party.

4.3 Upon completion of installation, the Purchaser and 3-C Bulgaria shall install an identifiable seal on each Metering Device and issue an appropriate testing protocol. Neither such Party shall have a right to remove any such seal without the written consent of the other, except in an Emergency.

4.4 All testing performed on Metering Devices and on the entire Metering System shall be conducted pursuant Article 1.4 of this Appendix K and in conformance with related manufacturer's recommendations.

4.5 Additional testing of the Commercial Metering System or any of its components shall be performed if any of its primary and companion check tariff meters (including the

Back-Up Metering System) register differences in excess of 0.2% in transferred energy over any twenty four (24) hour period. This process shall occur within seven (7) Days of the tariff metering discrepancy being discovered. A testing protocol shall be agreed in advance by 3-C Bulgaria and the Purchaser. The additional testing and re-calibration will take place in the presence of the Purchaser and 3-C Bulgaria.

4.6 Any Party shall have the right to request additional re-testing of any Metering Device or the entire Metering System. Such re-testing shall be performed within thirty (30) Days upon receipt of a written request for testing by any Party. Costs of such additional re-testing shall be borne by the requesting Party.

4.7 Current and voltage transformers will be tested for ratio and phase angle errors following manufacture in the presence of representatives from 3-C Bulgaria and the Purchaser. Compensation will be made for the characteristics of current and voltage transformers occurring during meter calibration or during computation of records. Test certificates will be issued independently to both Parties.

4.8 After completion of installation the Metering Systems, including all Metering Devices, will be tested according to the accuracy requirement of 1.6, if possible. The Purchaser will provide the necessary equipment for such tests.

5. METERING SYSTEMS READING PROCEDURE

5.1 For commercial purposes readings of Commercial Metering System and of the Back-Up Metering System shall be taken at 24:00 midnight on the last Day of each Invoicing Period (or such other Day as may be mutually agreed upon by the Parties). For the purpose of determining the Net Electrical Energy Output of each Unit delivered to the Purchaser since the preceding reading and the times at which that output was delivered the Commercial Metering System reading shall apply.

5.2 The Parties shall have the right to have representatives present during any such reading. In the event that the Purchaser's representatives are present at such reading of the Commercial Metering System for the purpose of measuring Net Electrical Energy Output, then such reading shall be jointly taken and recorded. In the event that the Purchaser's representatives not present at a reading of Net Electrical Energy Output, 3-C Bulgaria's representative shall take and record such reading and make a photographic record thereof. 3-C Bulgaria shall maintain a log of all such meter readings. For invoicing purposes all measurements recorded shall be delivered by 3-C Bulgaria to the Purchaser through facsimile within forty-eight (48) hours after the readings are taken. Both Parties shall agree on a reading protocol within seventy-two (72) hours after the readings have been taken.

5.3 In the event that the Commercial Metering System is not in service as a result of maintenance, repairs or testing, then the best available information, which may include the Back-Up Metering System, shall be used during the period that the Commercial Metering System is not in service and the foregoing provisions of this Clause 5 shall apply to the reading of the Back-Up Metering System.

6. COMMERCIAL METERING SYSTEMS DISCREPANCIES

6.1 When, as a result of any test pursuant to Paragraph 4 or differences in reading to Paragraph 5, the Commercial Metering System is found to be inaccurate by more than

one-half percent (0.5%) or is otherwise functioning improperly, then the correct amount of Net Electrical Energy Output delivered to the Purchaser for the actual period during which inaccurate measurements were made, if any, shall be determined as follows:

(a) first, the readings of the Back-Up Metering System, if any, must be utilized to calculate the correct amount of Net Electrical Energy Output, unless a test of such Back-Up Metering System, as required by any Party, reveals that the Back-Up Metering System is inaccurate by more 0.2% or is otherwise functioning improperly;

(b) if the Back-Up Metering System is found to be inaccurate by more than 0.2% or is otherwise functioning improperly, then 3-C Bulgaria and the Purchaser shall jointly prepare an estimate of the correct reading on the basis of all available information and such guidelines as may have been agreed to between 3-C Bulgaria and the Purchaser;

(c) in the event that the Purchaser and 3-C Bulgaria fails to agree upon an estimate for the correct reading, the Purchaser shall make any payments to 3-C Bulgaria required as a result of its estimate of the correct reading and the matter may be referred by either such Party for determination by an Expert under Clause 18.12 of this Agreement; and

(d) the difference between the previous payments by the Purchaser for the period of inaccuracy and the recalculated amount shall be offset against or added to the next payment to 3-C Bulgaria under this Agreement as appropriate. If the period of inaccuracy cannot be accurately determined, it shall be deemed to have begun on the date which is midway between the date the meter was found to be inaccurate and the date of the last meter reading accepted by the Parties as accurate. In no event, however, shall any such adjustment be made for any period prior to the date on which the Commercial Metering System was last tested and found to be accurate within +/-0.2%) and otherwise functioning properly.

7. REPAIR, REPLACEMENT OR RE-CALIBRATION OF METERING DEVICES

7.1 When any component of the Commercial Metering System is found to be outside acceptable limits of accuracy or otherwise not functioning properly, the Purchaser shall forthwith repair, or replace such component of the Commercial Metering System at its cost. Similarly, when any component of the Back-Up Metering System or Gross Metering System is found to be outside acceptable limits of accuracy or otherwise not functioning properly, 3-C Bulgaria shall forthwith repair, or replace such component of the Metering System at its cost. Upon the completion of any examination, maintenance or repair of, or replacement of any Metering Device it shall be jointly sealed.

APPENDIX L
CONSTRUCTION AND COMMISSIONING OF THE INTERCONNECTION FACILITIES

1. DEFINITIONS

In this Appendix L the following terms shall have the meanings set out below:-

1.1 **"3-C Bulgaria Work"** shall mean, in relation to the Interconnection Facilities the work to be carried out and services to be provided by 3-C Bulgaria for design, assembly, construction, commissioning, testing, operation, maintenance, replacement and dismantling of the Interconnection Facilities on 3-C Bulgaria's side of the Delivery Point;

1.2 **"Purchaser's Work"** shall mean the work to be carried out and services to be provided by the Purchaser for design, assembly, construction, commissioning, testing, operation, maintenance, replacement and dismantling of the Interconnection Facilities on the Purchaser's side of the Delivery Point; as required by Clause 4.2 of this Agreement

1.3 **"Interconnection Facilities"** shall mean the high voltage network elements involved in the transmission of electricity on the Purchaser's side of the Delivery Point and the back-up and auxiliary facilities working directly with them (including the telecommunications and telemechanical interconnection facilities) which are described in Appendices B and E of this Agreement.

2. TECHNOLOGY

The Purchaser and 3-C Bulgaria agree that in carrying out their respective obligations set out in this Appendix they will only use technology which complies with those Legal Requirements pertaining to such technology, which complies with Prudent Operating Practices and which makes it possible to operate the Complex and the Interconnection Facilities continuously for at least thirty (30) Years from the Date of Commercial Operation in accordance with the requirements of this Agreement.

3. PURCHASER'S WORK

The Purchaser will carry out the Purchaser's Work in all respects in accordance with applicable Legal Requirements and Prudent Operating Practices and so as to enable 3-C Bulgaria to carry out the 3-C Bulgaria Work in a proper and timely manner. The Purchaser shall be solely responsible for the costs associated with the performance of the Purchaser's Work.

4. 3-C BULGARIA's WORK

3-C Bulgaria will carry out the 3-C Bulgaria Work in all respects in accordance with applicable Legal Requirements and Prudent Operating Practices and so as to enable the Purchaser to carry out the Purchaser's Work in a proper and timely manner. 3-C Bulgaria shall be solely responsible for the costs associated with the performance of the 3-C Bulgaria Work.

5. COMMISSIONING PROGRAMME

3-C Bulgaria undertakes to prepare a commissioning programme in respect of the Interconnection Facilities by no later than thirty (30) Days prior to the Start-Up tests for Unit 1 referred to in Paragraph 2 of Appendix F. The Purchaser will provide all necessary assistance to enable 3-C Bulgaria to prepare such commissioning programme which shall include the following:

5.1 a detailed list of the connections and work phases, without omissions, in time sequence and schedule; the operational status following commissioning will also be defined;

5.2 a precise delineation of the equipment, the name, address and telephone number of the owner, the operator and those responsible for maintenance, fault repairs and operational control and the precise boundaries of the new equipment for the purposes of data gathering and evaluation for the protective and automated equipment;

5.3 details of the organisation authorised to set and if necessary reset the protective and automated equipment;

5.4 a technical description of the equipment and the names of those entitled to issue and take instructions;

5.5 the main technical data of the equipment in question needed for normal operation and operational control; and

5.6 the name of the individual responsible for commissioning along with his/her telecommunications contact details.

6. DATA

Each of 3-C Bulgaria and the Purchaser undertakes to supply to the other such data as the other may reasonably require to enable it to carry out its obligations under this Appendix L. The Party supplying such data shall be liable to the other for any losses suffered by that Party as a result of inaccuracies in such data.

7. DESIGNS

7.1 3-C Bulgaria shall prepare the designs to be created as part of the 3-C Bulgaria Work in sufficient detail and produce them to the Purchaser to enable the Purchaser to ensure the safety of the Grid System and the operation of the interconnected electrical systems.

7.2 The Purchaser shall prepare the designs to be created as part of the Purchaser's Work in sufficient detail and produce them to 3-C Bulgaria to enable 3-C Bulgaria to ensure the safety of the Complex and the operation of the interconnected electrical systems.

APPENDIX M
TAX ASSUMPTIONS

The Capacity Payments, the Energy Payments and the payments for Ancillary Services are based on Tax practices and applications which are in effect at the date of this Agreement except in respect of corporate income taxes where Tax rates announced (as at the date of this Agreement) to apply from 1 January 2002 have been used. Such Tax practices and applications include those stated in Paragraphs 1 to 4 of this Appendix M.

1. CORPORATE INCOME TAX

A. Corporate Income Tax Rates

The Capacity Payments are based on the following corporate income tax rates (effective as from 1 January 2002):

Taxable Profits	Municipal Tax	Corporate Income Tax*	Effective Aggregate Rate
Standard Rates	10%	15%	23.5%

* Corporate income tax rate is applied on taxable profits after deducting the 10% municipal tax.

B. Thin Capitalisation Rules (the "Rules")

The Bulgarian Corporate Income Tax Act restricts the deductibility of interest costs incurred in respect of all types of debt financing through the currently applicable Rules.

The Rules apply to Bulgarian resident companies, except for banks and holding companies. The Rules apply only if the debt financing of a company exceeds twice the amount of its equity financing.

The Rules apply Calendar Yearly.

Restricted interest costs include all interest costs incurred by the taxpayer as per its profit and loss account, including the interest elements of finance lease payments. There is one exception to these Rules stating that restricted interest costs do not include interest incurred in relation to bank loans or finance lease agreements provided they were concluded, and commenced, before 1 January 1999.

If the debt financing exceeds twice the equity financing of the company, the restricted interest costs are Tax deductible within a limit determined in accordance with the formula below. This formula is based on the parties' advisers' interpretation of relevant legislation and shall be rectified in the event that clarification of such legislation reveals any inaccuracies in such formula:

interest income + {75% x (FR - interest income + interest costs)}*

FR is the taxpayer's annual accounting financial result (pre-tax profit or loss),

* the amount in square brackets, if negative, is disregarded.

If restricted interest costs exceed the above limit the excess is not Tax deductible for the respective Calendar Year. This excess is to be added-back in the calculation of the taxable profit for the respective period.

C. Loss carry forward

The negative Calendar Yearly financial result, i.e. the accounting loss incurred by a Bulgarian resident company, adjusted by reducing the loss with certain non-Tax-deductible expenses, can be carried forward (but not back) and deducted from the company's taxable profit during the following five (5) consecutive Calendar Years.

The loss is deducted from the taxable profit of the following Calendar Year only up to the amount of the positive financial (accounting) result for that particular Calendar Year. If the accounting profit is insufficient to offset the loss, the remaining Tax loss is deducted during the following Calendar Years within the 5 Calendar Year term as from the occurrence of the Tax loss.

2. TAXES ON CERTAIN EXPENSES

At the date of this Agreement certain expenses made by the corporate taxpayers are subject to "final" Taxes, as follows:

· Social expenses - 20 %;
· Expenses relating to exploitation of cars - 20 %;
· Expenses for representation purposes - 25 %;
· Donations and sponsorship accounted for as expenses - 25 %.

Both the above expenses and the "final" Tax on them are Tax deductible.

3. VALUE ADDED TAX

The following rates of Value Added Tax currently apply:

· 20 % - for most of the supplies of goods or services and imports, and
· 0 % - for export supplies.

The Capacity Payments, Energy Payments and payments for Ancillary Services assume that the VAT refund lag during construction is 4 Months and 45 Days.

4. WITHHOLDING TAXES

It is assumed that Withholding Taxes at the rate of 5% will apply to any dividend payments, fees and other payments by 3-C Bulgaria to the Netherlands but that there are no other Withholding Taxes applicable to the Project or performance by 3-C Bulgaria of any of its obligations under any Project Agreement. It also assumed that no Withholding Taxes are payable to Financing Parties.

APPENDIX N

FORM OF DEVELOPMENT PERFORMANCE GUARANTEE

THIS GUARANTEE is made this [ ] day of [ ] 2001

BETWEEN

(1) **THE AES CORPORATION**, a company registered in the USA whose registered office is at 1001 North 19th Street, Arlington, Virginia 22209 USA, herein represented by [ ] who is duly authorised to represent it in this Guarantee (the "**Guarantor**"); and

(2) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state enterprise duly organised and existing under the laws of the Republic of Bulgaria whose address is 5 Vesletz Street, Sofia 1040, Bulgaria, herein represented by Mr Danail Tafrov, who is duly authorised to represent it in this Guarantee ("NEK").

WHEREAS

(A) By a power purchase agreement dated 13th June 2001 (the "PPA") made between NEK, and Consolidated Continental Commerce Limited and to which AES-3C Maritza Iztok 1 EOOD ("**3-C Bulgaria**") became a party by execution of an Accession Undertaking on 13th June 2001, 3-C Bulgaria has agreed to design, engineer, develop, finance, construct, commission, own, operate and maintain a 2 x 300 MW (net design capacity), lignite-fired electric generating plant in Galabovo, Maritza East, Bulgaria and NEK has agreed to buy the capacity and output of such plant upon and subject to the terms and conditions therein set out.

(B) In consideration of the payment by NEK of US$1 to the Guarantor and other good and valuable consideration (the receipt and adequacy of which the Guarantor acknowledges by executing this Guarantee) the Guarantor has agreed to guarantee the performance of the obligation of 3-C Bulgaria under Clause 14.4(a)(ii) of the PPA (subject to the terms of the PPA) upon the terms and conditions of this Guarantee and it is a condition of the PPA that this Guarantee be issued within ten Business Days after the date of signing of the PPA.

(C) Words or expressions defined in the PPA shall have the same meanings when used in this Guarantee unless the context otherwise requires.

(D) References in this Guarantee to "obligations" shall include an obligation to pay or discharge every kind of debt or liability (present or future, certain or contingent), whether incurred as principal, surety or otherwise.

NOW THIS GUARANTEE WITNESSES AS FOLLOWS:

1. **The Guarantee**

1.1 The Guarantor hereby unconditionally and irrevocably:

(a) guarantees to NEK the full, due and punctual performance and discharge by 3-C Bulgaria of 3-C Bulgaria's obligations to the Purchaser under Clause 14.4(a)(ii) of the PPA (the "**Guaranteed Obligation**") to the extent it is due and

performable or otherwise required to be complied with according to the terms of the PPA;

(b) undertakes to NEK that in the event of 3-C Bulgaria failing to perform, discharge or comply with any or all of the Guaranteed Obligation the Guarantor shall immediately upon receipt of first written demand from NEK in compliance with Clause 3.2 perform or take such steps as are necessary to achieve or procure performance or discharge of, or compliance with, the Guaranteed Obligation; and

(c) as a separate, independent stipulation the Guarantor unconditionally and irrevocably agrees as a primary obligation to indemnify NEK against any loss suffered by it as a result of:

(i) any failure by 3-C Bulgaria to perform the Guaranteed Obligation in accordance with its provisions, or

(ii) any failure by the Guarantor to perform its obligations under or pursuant to this Guarantee in accordance with the provisions hereof; or

(iii) any of the obligations of the Guarantor under or pursuant to this Guarantee being or becoming wholly or partly void, voidable, illegal or unenforceable for any reason or in the event of this Guarantee not proving to be binding on the Guarantor for any reason (whether or not now existing and whether or not now known or becoming known to NEK, 3-C Bulgaria or the Guarantor).

2. **Guarantor's Obligations**

2.1 The Guarantor's obligations as guarantor shall constitute and be continuing obligations notwithstanding any settlement of account and shall not be considered satisfied by any partial performance by the Guarantor of the Guaranteed Obligation and shall enter into full force and effect on and from the date of execution of the PPA by Consolidated Continental Commerce Limited and NEK and shall continue to be in full force and effect until the Guaranteed Obligation has been fully performed, discharged or complied with and, for the avoidance of doubt, this Guarantee shall remain in full force and effect in relation to matters which are subject to the dispute resolution procedure pursuant to Clause 18 of the PPA until such time as all the Guaranteed Obligation has been fully performed, discharged or complied with.

2.2 The total, aggregate sum payable by the Guarantor in respect of the Guaranteed Obligation, whether under this Guarantee or otherwise, when aggregated with any sum paid by 3-C Bulgaria under Clause 14.4(a)(ii) of the PPA, shall not exceed fifteen million Euros (€ 15,000,000).

3. **Discharge of Guarantee**

3.1 Neither the obligations of the Guarantor under this Guarantee nor the rights, powers and remedies conferred in respect of the Guarantor upon NEK by law shall be discharged, impaired or otherwise affected by:

(a) any time, forgiveness, forbearance, delay or other indulgence granted to 3-C Bulgaria or any alteration, amendment or variation in the terms of any Project Agreement (including the PPA) or other commitment to which it is or may become a party or otherwise bound, including any extension of the Long Stop

date of Financial Close;

(b) any disability, incapacity or change in status, function, control or ownership of 3-C Bulgaria, NEK or the Guarantor;

(c) any liquidation, bankruptcy, insolvency, winding up or reorganisation of any of 3-C Bulgaria, NEK or the Guarantor;

(d) the existence of any dispute or disagreement whatsoever under or in relation to the PPA;

(e) any Person pursuant to the PPA or the Direct Agreement becoming, or ceasing to be, a party with NEK to the PPA; or

(f) any other act, event or omission which, but for this Clause 3.1, might operate to discharge, impair or otherwise affect any of the obligations of the Guarantor under this Guarantee or any of the rights, powers or remedies conferred upon NEK by law.

This Guarantee shall be discharged if the Effective Date occurs on or before the Long Stop Date of Financial Close.

3.2 The Guarantor agrees to make any payment due under this Guarantee upon receipt of first written request (a "**Demand**") from NEK substantially in the form set out in Annex 1 hereto. The Guarantor shall make such payment either:

(a) into the bank account nominated by NEK in the Demand; or,

(b) into a bank account with Citibank plc in London (the "**Escrow Account**") opened by the Guarantor in the joint names of the Guarantor and NEK on the following terms and otherwise on Citibank plc's standard conditions of escrow.

If the Guarantor elects to make a payment into an Escrow Account in accordance with 3.2(b), the Guarantor shall promptly (and in any event within 60 days) initiate arbitration proceedings with a view to determining whether 3-C Bulgaria was in breach of its obligations under Clause 14.1(b) of the PPA in the manner described in the Demand. For the purposes of this arbitration, the provisions of Clause 18 of the PPA (other than Clauses 18.1, 18.2 and 18.12) shall apply as if it was included in this Guarantee with the necessary changes.

If the Guarantor does not provide a copy of a notice initiating such arbitration proceedings to Citibank plc within 60 days of receipt of the Demand, the terms of the escrow shall entitle NEK to disburse the amount specified in the Demand from the Escrow Account without the Guarantor's consent. If the Guarantor does provide a copy of a notice initiating such arbitration proceedings to Citibank:

1. the Guarantor shall be entitled to the amount standing to the credit of the Escrow Account together with interest accruing thereon if the arbitration determines that 3-C Bulgaria is not in breach of the obligation under Clause 14.1(b) of the PPA stated in the Demand; and

2. NEK shall be entitled to the amount standing to the credit of the Escrow Account together with interest accruing thereon if the arbitration determines that 3-C Bulgaria is in breach of the obligation under Clause 14.1(b) of the PPA stated in

the Demand.

For this purpose the Guarantor shall, in initiating the arbitration, request that the arbitrator issues his decision in a form that will be acceptable to Citibank plc in accordance with their escrow arrangements.

3.3 All payments to be made by the Guarantor under this Guarantee shall be made in immediately available funds in the currency in which they are due under the PPA and without withholding or deduction on account of taxes or, if the Guarantor is obliged to make any withholding or deduction, the Guarantor shall gross up the payment so that the net sum received by NEK will include the sum demanded.

3.4 Any payment not made within 5 Business Days of a valid Demand shall bear interest at the rate of 4% over LIBOR on and from the date the Demand was received (or deemed received) by the Guarantor until payment of the amount demanded (and any accrued interest), which interest rate shall apply before and after judgment. Unpaid interest shall be compounded after every period of thirty (30) days.

3.5 This Guarantee and the undertakings herein contained shall be binding upon the successors of the Guarantor and are provided for and shall enure to the benefit of NEK, its successors and permitted assigns. Without limiting any other right of NEK, for the purposes of financing or refinancing NEK may from time to time assign, transfer or create in favour of any financial institution or Person an encumbrance over this Guarantee and its rights, interests and benefits in it. However, if NEK assigns this Guarantee, or a successor succeeds to NEK's rights and obligations under this Guarantee and, as a result of circumstances existing at the date of such assignment or succession, the Guarantor would be obliged to perform an obligation or to make a payment (whether in character or amount) which it would not have been obliged to perform or make if such assignment or succession had not occurred, then the assignee or successor, as the case maybe, shall only be entitled to receive performance of such obligation or payment to the same extent and in the same amount as if such assignment or succession had not occurred.

3.6 All rights which the Guarantor at any time has in respect of this Guarantee against 3-C Bulgaria or its assets shall be fully subordinated to the rights of NEK under the PPA and in particular the Guarantor shall not:

(a) claim, or in a bankruptcy (which includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country) prove for, any amount payable to the Guarantor by 3-C Bulgaria in respect of this Guarantee;

(b) take or enforce any encumbrance for any such amount;

(c) claim to set off any such amount against any amount payable by the Guarantor to 3-C Bulgaria or NEK; or

(d) (without prejudice to the provisions of 3.2 above) claim any subrogation or other right in respect of the PPA, this Guarantee or any sum received or recovered by NEK under or in connection with the PPA, this Guarantee.

4. *Miscellaneous*

4.1 All Demands and other notices to be given under this Guarantee by NEK or the Guarantor shall be given in writing by letter to the Guarantor or, as the case may be, NEK at its address specified above or at such other address as it may from time to time specify by not less than fifteen (15) days' prior written notice.

4.2 This Guarantee shall be governed by and construed in accordance with the laws of England and the courts of England shall have exclusive jurisdiction to settle any dispute connected with it.

IN WITNESS WHEREOF, each of the Guarantor and NEK has caused this Agreement to be executed in duplicate originals, each of which shall be deemed to be an original, as of the date first above written.

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)
SIGNED by DANAIL TAFROV, EXECUTIVE DIRECTOR)
duly authorised for and on behalf of NEK)

THE AES CORPORATION
SIGNED by)
duly authorised for and on behalf of the Guarantor)

ANNEX 1

Attention: **The AES Corporation**
(Guarantee Dept)

Re: **Maritza East 1 Project**
Call on the Development Performance Guarantee

Dear Sirs,

We refer to the guarantee given by you to the undersigned dated [ ] June 2001 (the "Guarantee"), a copy of which is attached. Unless otherwise defined herein, all capitalised terms used herein and defined in the Guarantee shall be used herein as so defined.

3-C Bulgaria is in breach of Clause 14.4(a)(ii) of the PPA due to [*insert brief reason referring to a breach of Clause 14.1(b) of the PPA by 3-C Bulgaria*].

We hereby demand payment from you in the sum of [*specify amount not exceeding fifteen million Euros (Euro15,000,000)*] strictly in accordance with the terms of your Guarantee. Please transfer [*specify amount not exceeding fifteen million Euros (Euro15,000,000)*] by wire transfer to [*NEK to identify account number and location / S.W.I.F.T. code, whatever is applicable*] upon receipt of this demand.

Yours faithfully

[Name]
Authorised Signatory of NEK

APPENDIX O
FORM OF CONSTRUCTION PERFORMANCE GUARANTEE

THIS GUARANTEE is made [ ] this day of [ ] 200[ ]

BETWEEN

(1) **THE AES CORPORATION**, a company registered in the USA whose registered office is at 1001 North 19th Street, Arlington, Virginia 22209 USA, herein represented by [ ] who is duly authorised to represent it in this Guarantee (the "**Guarantor**"); and

(2) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state enterprise duly organised and existing under the laws of the Republic of Bulgaria whose address is 5 Vesletz Street, Sofia 1040, Bulgaria, herein represented by Mr [ ], who is duly authorised to represent it in this Guarantee ("**NEK**").

WHEREAS

(A) By a power purchase agreement dated 13th June 2001 (the "**PPA**") made between NEK, and to which AES-3C Maritza Iztok 1 EOOD ("**3-C Bulgaria**") became a party by execution of an Accession Undertaking on 13th June 2001 and Consolidated Continental Commerce Limited, 3-C Bulgaria has agreed to design, engineer, develop, finance, construct, commission, own, operate and maintain a 2 x 300 MW (net design capacity), lignite-fired electric generating plant in Galabovo, Maritza Iztok, Bulgaria and NEK has agreed to buy the capacity and output of such plant upon and subject to the terms and conditions therein set out.

(B) In consideration of the payment by NEK of US$1 to the Guarantor and other good and valuable consideration (the receipt and adequacy of which the Guarantor acknowledges by executing this Guarantee) the Guarantor has agreed to guarantee the performance of the obligations of 3-C Bulgaria under Clause 5.2(a) and (b) (subject to the terms of the PPA) upon the terms and conditions of this Guarantee and it is a condition of the PPA that this Guarantee be issued prior to the Effective Date.

(C) Words or expressions defined in the PPA shall have the same meanings when used in this Guarantee unless the context otherwise requires.

(D) References in this Guarantee to "obligations" shall include an obligation to pay or discharge every kind of debt or liability (present or future, certain or contingent), whether incurred as principal, surety or otherwise.

NOW THIS GUARANTEE WITNESSES AS FOLLOWS:

1. The Guarantee

1.1 The Guarantor hereby unconditionally and irrevocably:

(a) guarantees to NEK the full, due and punctual performance and discharge by 3-

C Bulgaria of its obligations to the Purchaser under Clause 5.2(a) and/or (b) of the PPA (the "**Guaranteed Obligations**");

(b) undertakes to NEK that in the event of 3-C Bulgaria failing to perform, discharge or comply with any or all of the Guaranteed Obligation the Guarantor shall immediately upon receipt of first written demand from NEK in compliance with Clause 3.2 perform or take such steps as are necessary to achieve or procure performance or discharge of, or compliance with, the Guaranteed Obligations; and

(c) as a separate, independent stipulation the Guarantor unconditionally and irrevocably agrees as a primary obligation to indemnify NEK against any loss suffered by it as a result of:

(i) any failure by 3-C Bulgaria to perform the Guaranteed Obligations in accordance with their terms; or

(ii) any failure by the Guarantor to perform its obligations under or pursuant to this Guarantee in accordance with the provisions hereof; or

(iii) any of the obligations of the Guarantor under or pursuant to this Guarantee being or becoming wholly or partly void, voidable, illegal or unenforceable for any reason or in the event of this Guarantee not proving to be binding on the Guarantor for any reason (whether or not now existing and whether or not now known or becoming known to NEK, 3-C Bulgaria or the Guarantor).

2. Guarantor's Obligations

2.1 The Guarantor's obligations as guarantor shall constitute and be continuing obligations notwithstanding any settlement of account and shall not be considered satisfied by any partial performance by the Guarantor of the Guaranteed Obligation and shall enter into full force and effect on and from the Effective Date of the PPA and shall continue to be in full force and effect until the Guaranteed Obligation has been fully performed, discharged or complied with or the PPA has been terminated (whichever shall first occur) and, for the avoidance of doubt, this Guarantee shall remain in full force and effect in relation to matters which are subject to the dispute resolution procedure pursuant to Clause 18 of the PPA until such time as all the Guaranteed Obligation has been fully performed, discharged or complied with.

2.2 The total, aggregate sum payable by the Guarantor in respect of the Guaranteed Obligation, whether under this Guarantee or otherwise, when aggregated with any sum paid by 3-C Bulgaria under Clause 5.2(a) and/or 5.2(b) of the PPA, shall not exceed ten million nine hundred and fifty thousand Euros (€ 10,950,000).

3. Discharge of Guarantee

3.1 Neither the obligations of the Guarantor under this Guarantee nor the rights, powers and remedies conferred in respect of the Guarantor upon NEK by law shall be discharged, impaired or otherwise affected by:

(a) any time, forgiveness, forbearance, delay or other indulgence granted to 3-C Bulgaria or any alteration, amendment or variation in the terms of any Project

Agreement (including the PPA) or other commitment to which it is or may become a party or otherwise bound, including any extension of the Long Stop Date of Commercial Operation and/or the Long Stop Date of Full Commercial Operation;

(b) any disability, incapacity or change in status, function, control or ownership of 3-C Bulgaria, NEK or the Guarantor;

(c) any liquidation, bankruptcy, insolvency, winding up or reorganisation of any of 3-C Bulgaria, NEK or the Guarantor;

(d) the existence of any dispute or disagreement whatsoever under or in relation to the PPA;

(e) any Person pursuant to the PPA or the Direct Agreement becoming, or ceasing to be, a party with NEK to the PPA; or

(f) any other act, event or omission which, but for this Clause 3.1, might operate to discharge, impair or otherwise affect any of the obligations of the Guarantor under this Guarantee or any of the rights, powers or remedies conferred upon NEK by law.

This Guarantee shall be discharged if the Date of Full Commercial Operation occurs on or before the Long Stop Date of Full Commercial Operation.

3.2 The Guarantor agrees to make any payment due under this Guarantee upon receipt of first written request (a "**Demand**") from NEK substantially in the form set out in Annex 1 hereto. . The Guarantor shall make such payment either:

(a) into the bank account nominated by NEK in the Demand; or,

(b) into a bank account with Citibank plc in London (the "**Escrow Account**") opened by the Guarantor in the joint names of the Guarantor and NEK on the following terms and otherwise on Citibank plc's standard conditions of escrow.

If the Guarantor elects to make a payment into an Escrow Account in accordance with 3.2(b), the Guarantor shall promptly (and in any event within 60 days) initiate arbitration proceedings with a view to determining whether 3-C Bulgaria was in breach of its obligations under Clauses 5.2(a) and/or (b) of the PPA in the manner described in the Demand. For the purposes of this arbitration, the provisions of Clause 18 of the PPA (other than Clauses 18.1, 18.2 and 18.12) shall apply as if it was included in this Guarantee with the necessary changes.

If the Guarantor does not provide a copy of a notice initiating such arbitration proceedings to Citibank plc within 60 days of receipt of the Demand, the terms of the escrow shall entitle NEK to disburse the amount specified in the Demand from the Escrow Account without the Guarantor's consent. If the Guarantor does provide a copy of a notice initiating such arbitration proceedings to Citibank:

1. the Guarantor shall be entitled to the amount standing to the credit of the Escrow Account together with interest accruing thereon if the arbitration determines that 3-C Bulgaria is not in breach of the obligations under Clauses 5.2(a) and/or (b) of the PPA (as the case may be) stated in the Demand; and

2. NEK shall be entitled to the amount standing to the credit of the Escrow Account together with interest accruing thereon if the arbitration determines that 3-C Bulgaria is in breach of the obligation under Clauses 5.2(a) and/or (b) of the PPA stated in the Demand.

For this purpose the Guarantor shall, in initiating the arbitration, request that the arbitrator issues his decision in a form that will be acceptable to Citibank plc in accordance with their escrow arrangements.

3.3 All payments to be made by the Guarantor under this Guarantee shall be made in immediately available funds in the currency in which they are due under the PPA and without withholding or deduction on account of taxes or, if the Guarantor is obliged to make any withholding or deduction, the Guarantor shall gross up the payment so that the net sum received by NEK will include the sum demanded.

3.4 Any payment not made within five (5) Business Days of a valid Demand shall bear interest at the rate of 4% over LIBOR on and from the date the Demand was received (or deemed received) by the Guarantor until payment of the amount demanded (and any accrued interest), which interest rate shall apply before and after judgment. Unpaid interest shall be compounded after every period of thirty (30) days.

3.5 This Guarantee and the undertakings herein contained shall be binding upon the successors of the Guarantor and are provided for and shall enure to the benefit of NEK, its successors and permitted assigns. Without limiting any other right of NEK, for the purposes of financing or refinancing NEK may from time to time assign, transfer or create in favour of the Financing Parties or any other financial institution or Person an encumbrance over this Guarantee and its rights, interests and benefits in it. However, if NEK assigns this Guarantee, or a successor succeeds to NEK's rights and obligations under this Guarantee and, as a result of circumstances existing at the date of such assignment or succession, the Guarantor would be obliged to perform an obligation or to make a payment (whether in character or amount) which it would not have been obliged to perform or make if such assignment or succession had not occurred, then the assignee or successor, as the case maybe, shall only be entitled to receive performance of such obligation or payment to the same extent and in the same amount as if such assignment or succession had not occurred.

3.6 All rights which the Guarantor at any time has in respect of this Guarantee against 3-C Bulgaria or its assets shall be fully subordinated to the rights of NEK under the PPA and to the Financing Parties under the Financing Agreements and in particular the Guarantor shall not:

(a) claim, or in a bankruptcy (which includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country) prove for, any amount payable to the Guarantor by 3-C Bulgaria in respect of this Guarantee;

(b) take or enforce any encumbrance for any such amount;

(c) claim to set off any such amount against any amount payable by the Guarantor

to 3-C Bulgaria or NEK; or

(d) (without prejudice to the provisions of 3.2 above) claim any subrogation or other right in respect of the PPA, this Guarantee, or any Financing Agreement or any sum received or recovered by NEK or the Financing Parties under or in connection with the PPA, this Guarantee or any Financing Agreement.

4. Miscellaneous

4.1 All Demands and other notices to be given under this Guarantee by NEK or the Guarantor shall be given in writing by letter to the Guarantor or, as the case may be, NEK at its address specified above or at such other address as it may from time to time specify by not less than fifteen (15) days' prior written notice.

4.2 This Guarantee shall be governed by and construed in accordance with the laws of England and the courts of England shall have exclusive jurisdiction to settle any dispute connected with it.

IN WITNESS WHEREOF, each of the Guarantor and NEK has caused this Agreement to be executed in duplicate originals, each of which shall be deemed to be an original, as of the date first above written.

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)
SIGNED by)
duly authorised for and on behalf of NEK)

THE AES CORPORATION)
SIGNED by)
duly authorised for and on behalf of the Guarantor)

ANNEX 1

Attention: **The AES Corporation**
(Guarantee Dept)

Re: **Maritza East 1 Project**
Call on the Construction Performance Guarantee

Dear Sirs,

We refer to the guarantee given by you to the undersigned dated [ ] (the "**Guarantee**"), a copy of which is attached. Unless otherwise defined herein, all capitalised terms used herein and defined in the Guarantee shall be used herein as so defined.

3-C Bulgaria is in breach of Clause(s) 5.2[(a)/(b)] of the PPA due to [*insert brief reason*].

We hereby demand payment from you in the sum of Euro [*specify*] strictly in accordance with the terms of your Guarantee. Please transfer Euro [*specify*] by wire transfer to [*NEK to identify account number and location / S.W.I.F.T. code, whatever is applicable*] upon receipt of this demand.

Yours faithfully

[ ]
Authorised Signatory of NEK

APPENDIX P
FORM OF COMPLEX TRANSFER SECURITY

THIS TRANSFER SECURITY is made this [ ] day of 20[ ]

BETWEEN

(1) **THE AES CORPORATION**, a company registered in the USA whose registered office is at 1001 North 19th Street, Arlington, Virginia 22209 USA, herein represented by [ ] who is duly authorised to represent it in this Transfer Security (the "**Guarantor**"); and

(2) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state enterprise duly organised and existing under the laws of the Republic of Bulgaria whose address is 5 Vesletz Street, Sofia 1040, Bulgaria, herein represented by Mr [ ], who is duly authorised to represent it in this Transfer Security ("**NEK**").

WHEREAS

(A) By a power purchase agreement dated 13th June 2001 (the "**PPA**") made between NEK, and to which AES 3-C Maritza Iztok 1 EOOD ("**3-C Bulgaria**") became a party by execution of an Accession Undertaking on 13th June 2001 and Consolidated Continental Commerce Limited, 3-C Bulgaria has agreed to design, engineer, develop, finance, construct, commission, own, operate and maintain a 2 x 300 MW (net design capacity), lignite-fired electric generating plant in Galabovo, Maritza East, Bulgaria (the "**Complex**") and NEK has agreed to buy the capacity and output of the Complex upon and subject to the terms and conditions therein set out.

(B) Clause 16.2 of the PPA provides for the transfer of the Complex from 3-C Bulgaria to NEK (the "**Transfer**"). Under the Transfer procedure as specified in Appendix I of the PPA, 3-C Bulgaria has certain obligations in relation to the condition of the Complex at Transfer and the Transfer arrangements.

(C) In consideration of the payment by NEK of US$1 to the Guarantor and other good and valuable consideration (the receipt and adequacy of which the Guarantor acknowledges by executing this Transfer Security) the Guarantor has agreed to guarantee the performance of the obligations of 3-C Bulgaria under Clause 16.2(c) of the PPA (subject to the terms of the PPA) upon the terms and conditions of this Transfer Security and it is a condition of the PPA that this Transfer Security be issued as a condition of the closing of the Complex Transfer (subject to the provisions of Clause 16.2(a) of the PPA).

(D) Words or expressions defined in the PPA shall have the same meanings when used in this Transfer Security unless the context otherwise requires.

(E) References in this Transfer Security to "obligations" shall include an obligation to pay or discharge every kind of debt or liability (present or future, certain or contingent), whether incurred as principal, surety or otherwise.

NOW THIS GUARANTEE WITNESSES AS FOLLOWS:

1. The Transfer Security

1.1 The Guarantor hereby unconditionally and irrevocably:

(a) guarantees to NEK the full, due and punctual performance and discharge by 3-C Bulgaria of its obligations to the Purchaser under Clause 16.2(c) of the PPA (the "**Guaranteed Obligations**");

(b) undertakes to NEK that in the event of 3-C Bulgaria failing to perform, discharge or comply with any or all of the Guaranteed Obligations the Guarantor shall immediately upon receipt of first written demand from NEK in compliance with Clause 3.2 perform or take such steps as are necessary to achieve or procure performance or discharge of, or compliance with, the Guaranteed Obligations; and

(c) as a separate, independent stipulation the Guarantor unconditionally and irrevocably agrees as a primary obligation to indemnify NEK against any loss suffered by it as a result of:

(i) any failure by 3-C Bulgaria to perform the Guaranteed Obligations in accordance with their terms; or

(ii) any failure by the Guarantor to perform its obligations under or pursuant to this Transfer Security in accordance with the provisions hereof; or

(iii) any of the obligations of the Guarantor under or pursuant to this Transfer Security being or becoming wholly or partly void, voidable, illegal or unenforceable for any reason or in the event of this Transfer Security not proving to be binding on the Guarantor for any reason (whether or not now existing and whether or not now known or becoming known to NEK, 3-C Bulgaria or the Guarantor).

2. Guarantor's Obligations

2.1 The Guarantor's obligations as guarantor shall constitute and be continuing obligations notwithstanding any settlement of account and shall not be considered satisfied by any partial performance by the Guarantor of the Guaranteed Obligations and shall enter into full force and effect on and from the closing of the Complex Transfer in accordance with Clause 16.2(a) of the PPA and shall continue to be in full force and effect until the Guaranteed Obligations have been fully performed, discharged or complied with and, for the avoidance of doubt, this Transfer Security shall remain in full force and effect in relation to matters which are subject to the dispute resolution procedure pursuant to Clause 18 of the PPA until such time as all the Guaranteed Obligations have been fully performed, discharged or complied with.

2.2 The total, aggregate sum payable by the Guarantor in respect of the Guaranteed Obligation, whether under this Transfer Security or otherwise, when aggregated with any sum paid by 3-C Bulgaria under Clause 16.2(a) and/or Appendix I of the PPA shall not exceed ten million Euros (Euro10,000,000).

3. Discharge of Transfer Security

3.1 Neither the obligations of the Guarantor under this Transfer Security nor the rights, powers and remedies conferred in respect of the Guarantor upon NEK by law shall be discharged, impaired or otherwise affected by:

(a) any time, forgiveness, forbearance, delay or other indulgence granted to 3-C Bulgaria or any alteration, amendment or variation in the terms of any Project Agreement (including the PPA) or other commitment to which it is or may become a party or otherwise bound;

(b) any disability, incapacity or change in status, function, control or ownership of 3-C Bulgaria, NEK or the Guarantor;

(c) any liquidation, bankruptcy, insolvency, winding up or reorganisation of any of 3-C Bulgaria, NEK or the Guarantor;

(d) the existence of any dispute or disagreement whatsoever under or in relation to the PPA;

(e) any Person pursuant to the PPA or the Direct Agreement becoming, or ceasing to be, a party with NEK to the PPA; or

(f) any other act, event or omission which, but for this Clause 3.1, might operate to discharge, impair or otherwise affect any of the obligations of the Guarantor under this Transfer Security or any of the rights, powers or remedies conferred upon NEK by law.

3.2 Guarantor agrees to make any payment due under this Transfer Security upon receipt of first written request (a **"Demand"**) from NEK substantially in the form set out in Annex 1 hereto. The Guarantor shall make such payment either:

(a) into the bank account nominated by NEK in the Demand; or,

(b) into a bank account with Citibank plc in London (the **"Escrow Account"**) opened by the Guarantor in the joint names of the Guarantor and NEK on the following terms and otherwise on Citibank plc's standard conditions of escrow.

If the Guarantor elects to make a payment into an Escrow Account in accordance with 3.2(b), the Guarantor shall promptly (and in any event within 60 days) initiate arbitration proceedings with a view to determining whether 3-C Bulgaria was in breach of its obligations under Clause 16.2(c) of the PPA in the manner described in the Demand. For the purposes of this arbitration, the provisions of Clause 18 of the PPA (other than Clauses 18.1, 18.2 and 18.12) shall apply as if it was included in this Guarantee with the necessary changes.

If the Guarantor does not provide a copy of a notice initiating such arbitration proceedings to Citibank plc within 60 days of receipt of the Demand, the terms of the escrow shall entitle NEK to disburse the amount specified in the Demand from the Escrow Account without the Guarantor's consent. If the Guarantor does provide a copy of a notice initiating such arbitration proceedings to Citibank:

1. the Guarantor shall be entitled to the amount standing to the credit of the Escrow Account together with interest accruing thereon if the arbitration determines that 3-C Bulgaria is not in breach of the obligation under Clause 16.2(c) of the PPA stated in the Demand; and

2. NEK shall be entitled to the amount standing to the credit of the Escrow Account together with interest accruing thereon if the arbitration determines that 3-C Bulgaria is in breach of the obligation under Clause 16.2(c) of the PPA stated in the Demand.

For this purpose the Guarantor shall, in initiating the arbitration, request that the arbitrator issues his decision in a form that will be acceptable to Citibank plc in accordance with their escrow arrangements.

3.3 All payments to be made by the Guarantor under this Transfer Security shall be made in immediately available funds in the currency in which they are due under the PPA and without withholding or deduction on account of taxes or, if the Guarantor is obliged to make any withholding or deduction, the Guarantor shall gross up the payment so that the net sum received by NEK will include the sum demanded.

3.3 Any payment not made within 5 days of a valid Demand shall bear interest at the rate of 4% over LIBOR on and from the date the Demand was received (or deemed received) by the Guarantor until payment of the amount demanded (and any accrued interest), which interest rate shall apply before and after judgment. Unpaid interest shall be compounded after every period of thirty (30) days.

3.4 This Transfer Security and the undertakings herein contained shall be binding upon the successors of the Guarantor and are provided for and shall enure to the benefit of NEK, its successors and permitted assigns. Without limiting any other right of NEK, for the purposes of financing or refinancing NEK may from time to time assign, transfer or create in favour of the Financing Parties or any other financial institution or Person an encumbrance over this Transfer Security and its rights, interests and benefits in it. However, if NEK assigns this Transfer Security, or a successor succeeds to NEK's rights and obligations under this Transfer Security and, as a result of circumstances existing at the date of such assignment or succession, the Guarantor would be obliged to perform an obligation or to make a payment (whether in character or amount) which it would not have been obliged to perform or make if such assignment or succession had not occurred, then the assignee or successor, as the case maybe, shall only be entitled to receive performance of such obligation or payment to the same extent and in the same amount as if such assignment or succession had not occurred.

3.5 All rights which the Guarantor at any time has in respect of this Transfer Security against 3-C Bulgaria or its assets shall be fully subordinated to the rights of NEK under the PPA and to the Financing Parties under the Financing Agreements and in particular the Guarantor shall not:

(a) claim, or in a bankruptcy (which includes a liquidation, receivership or administration and any form of suspension of payments, arrangement with creditors or reorganisation under any corporate or insolvency law of any country) prove for, any amount payable to the Guarantor by 3-C Bulgaria in respect of this Transfer Security;

(b) take or enforce any encumbrance for any such amount;

(c) claim to set off any such amount against any amount payable by the Guarantor to 3-C Bulgaria or NEK; or

(d) (without prejudice to the provisions of 3.2 above) claim any subrogation or other right in respect of the PPA, this Transfer Security, or any Financing Agreement or any sum received or recovered by NEK or the Financing Parties under or in connection with the PPA, this Transfer Security or any Financing Agreement.

4. Miscellaneous

4.1 All Demands and other notices to be given under this Transfer Security by NEK or the Guarantor shall be given in writing by letter to the Guarantor or, as the case may be, NEK at its address specified above or at such other address as it may from time to time specify by not less than fifteen (15) days' prior written notice.

4.2 This Transfer Security shall be governed by and construed in accordance with the laws of England and the courts of England shall have exclusive jurisdiction to settle any dispute connected with it.

IN WITNESS WHEREOF, each of the Guarantor and NEK has caused this Agreement to be executed in duplicate originals, each of which shall be deemed to be an original, as of the date first above written.

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)
SIGNED by)
duly authorised for and on behalf of NEK)

THE AES CORPORATION)
SIGNED by)
duly authorised for and on behalf of the Guarantor)

ANNEX 1

Attention: **The AES Corporation**
(Guarantee Dept)

Re: **Maritza East 1 Project**
Call on the Transfer Security

Dear Sirs,

We refer to the guarantee given by you to the undersigned dated [ ] (the "**Transfer Security**"), a copy of which is attached. Unless otherwise defined herein, all capitalised terms used herein and defined in the Transfer Security shall be used herein as so defined.

3-C Bulgaria is in breach of Clause 16.2(c) of the PPA due to [*insert brief reason*].

We hereby demand payment from you in the sum of Euro [*specify*] strictly in accordance with the terms of the Transfer Security. Please transfer Euro [*specify*] by wire transfer to [*NEK to identify account number and location / S.W.I.F.T. code, whatever is applicable*] upon receipt of this demand.

Yours faithfully

[ ]
Authorised Signatory of NEK

APPENDIX Q
FORM OF ACCESSION UNDERTAKING

THIS ACCESSION UNDERTAKING is made on 8 June 2001

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria ("NEK"), herein represented by Mr Danail Tafrov, who is duly authorised to represent it in this Agreement; and

(2) **CONSOLIDATED CONTINENTAL COMMERCE LIMITED**, a private limited company duly organised and existing under the laws of Mauritius ("**3-C Parent**"), herein represented by Mr Richard Mardon, who is duly authorised to represent it in this Agreement; and

(3) **AES-3C MARITZA IZTOK 1 EOOD**, a private corporation duly organised and existing under the laws of the Republic of Bulgaria ("**AES-3C**"), herein represented by Mr Richard Mardon, who is duly authorised to represent it in this Agreement

(together the "**Parties**").

WHEREAS:

(A) This Accession Undertaking is supplemental to a power purchase agreement dated 13th June 2001 made between (1) 3-C Parent and (2) NEK (the "**PPA**").

(B) As required under of the PPA, 3-C Parent is obliged to nominate one of its affiliates to become a party to the PPA and to assume the rights and obligations of 3-C Bulgaria (as defined under the PPA) and this Accession Undertaking records the terms on which such nomination shall take effect.

NOW IT IS HEREBY AGREED as follows:

1. Nomination

1.1 Subject to the terms hereof, 3-C Parent hereby nominates AES-3C to become a party to the PPA and to assume all the rights and obligations under the PPA of 3-C Bulgaria (as defined in the PPA) and AES-3C hereby accepts that nomination shall be with effect from the date of signing of the PPA and NEK hereby consents to such assignment.

1.2 As a consequence of such nomination, AES-3C hereby joins with 3-C Parent and NEK to become a party to the PPA and assumes the obligations of 3-C Bulgaria thereunder (as more particularly described in Paragraph 1.3 below). AES-3C hereby undertakes to observe and perform the PPA and to be bound by the terms of the PPA in every way as if it had been a party to the PPA with effect from the date of the

signing of the PPA.

1.3 The Parties hereby confirm that notwithstanding the nomination and assumption under this Accession Undertaking, the PPA shall continue in full force and effect.

2. Representations

AES-3C hereby represents and warrants to NEK and 3-C Parent that:

2.1 it is duly incorporated, validly existing and in good standing under the laws of Bulgaria;

2.2 it has all requisite legal power and corporate authority to execute, deliver and perform its obligations under this Accession Undertaking, the PPA and each of the other Project Agreements (as defined in the PPA) to which it is a party;

2.3 there are no actions, suits or proceedings pending or, to its knowledge, threatened against or affecting it before any court or administrative body or arbitral tribunal which might materially and adversely affect its ability to meet and carry out its obligations under this Accession Undertaking, the PPA and each of the other Project Agreements (as defined in the PPA) to which it is a party;

2.4 this Accession Undertaking has been duly authorised, executed and delivered by it and the provisions hereof and this Accession Undertaking, the PPA and each of the other Project Agreements (as defined in the PPA) to which it is a party will constitute its legal, valid and binding obligations, enforceable in accordance with their terms except as the enforceability may be limited by applicable bankruptcy, insolvency or other similar laws affecting creditors' rights generally.

3. General

The provisions of Clauses 18 and 22 of the PPA shall as required apply to this Accession Undertaking.

IN WITNESS WHEREOF, the Parties have caused this Accession Undertaking to be executed in duplicate originals, each of which shall be deemed to be an original as of the date first above written.

SIGNED by Danail Tafrov, Executive Director)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by Richard Mardon, Executive Director)
duly authorised for and on behalf of)
CONSOLIDATED CONTINENTAL COMMERCE LIMITED)

SIGNED by Richard Mardon, Executive Director)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK 1 EOOD)

APPENDIX R
DIAGRAMS AND PLANS

Index

The following Diagrams are provisional and may be updated by 3-C Bulgaria following completion of the detailed design of the Units and adjusted to take into account conditions pertaining during the Performance Tests:

Diagram	Description
R-1A	Net Heat Rate Correction Curve for Ambient Temperature (Dry Bulb)
R-1B	Net Heat Rate Correction Curve for Ambient Temperature (Wet Bulb)
R-1C	Net Heat Rate Correction Curve for Part Load Operation
R-1D	Net Turbine Heat Rate Correction Curve for Condensate Make-up
R-2	Single Line Diagram (three drawings)
R-3	Generator and 400 kV Protection System
R-4	400 kV High Voltage Connection Arrangement
R-5	Maximum Net Load versus Ambient Temperatures
R-6	Location Map of Maritza East Site
R-7	Plan Layout
R-8A	Unit 1 Net Heat Rate Degradation Curve
R-8B	Unit 2 Net Heat Rate Degradation Curve

APPENDIX S
PROJECT SUPPORT LETTER

РЕПУБЛИКА БЪЛГАРИЯ
ЗАМЕСТНИК МИНИСТЪР-ПРЕДСЕДАТЕЛ
И МИНИСТЪР НА ИКОНОМИКАТА

ПИСМО ЗА ПОДКРЕПА
(проект "Марица-изток 1")

Правителството на Република България,

отчитайки значимостта на проекта за финансиране, изграждане и експлоатация на нова централа на лигнитни въглища с мощност 670 МВт (бруто) на площадката на ТЕЦ "Марица-изток 1" от "Консолидейтид Континентъл Комърс Лтд (3С)", Маврций, и "ЕЙ И ЕС - 3С Марица-изток 1" ЕООД - Гълъбово, България

и след приключване на преговорите и сключване на следните проектни споразумения:

- Споразумението за изкупуване на електрическа енергия;
- Споразумението за доставка на лигнитни въглища;
- Споразумението за прехвърляне на площадката на "Марица изток 1",

заявява, че при изпълнението на проекта:

а) ще предприема такива мерки съгласно действащото законодателство, които според него са икономически обосновани и са в неговите правомощия за осигуряване дейността на държавните предприятия по проектните споразумения;

ДО
КОНСОЛИДЕЙТИД КОНТИНЕНТЪЛ КОМЪРС Лтд. (3С), МАВРИЦИЙ
"ЕЙ И ЕС - 3С МАРИЦА-ИЗТОК 1" ЕООД - ГЪЛЪБОВО, БЪЛГАРИЯ
ЗАЕМОДАТЕЛИТЕ ПО ПРОЕКТА "МАРИЦА-ИЗТОК 1"

b) при спазване на изискванията на българското законодателство ще издава и при необходимост ще съдейства за издаване от други компетентни държавни органи на всички разрешения, лицензи, съгласия и концесии, необходими за изпълнението на проекта;

c) ще се въздържа от действия, които биха могли да възпрепятстват изпълнението на задълженията на страните по проектните споразумения;

d) ще осигури своевременно при условията на буква "а" определянето на друго търговско дружество или търговски дружества, които да поемат задълженията по съответните проектни споразумения, в случай че "Национална електрическа компания" ЕАД или "Мини Марица-изток" ЕАД, докато са държавни предприятия, бъдат прекратени или бъдат обявени в несъстоятелност;

e) ще предприеме всички действия, които са в неговите правомощия, в случай на приватизация на "Национална електрическа компания" ЕАД или "Мини Марица-изток" ЕАД в съответния приватизационен договор да бъде предвидено приватизираното предприятие да продължи да упражнява всички права и да изпълнява всички задължения на държавното предприятие по проектните споразумения, както и в случай на прехвърляне на друго търговско дружество от "Национална електрическа компания" ЕАД или от "Мини Марица-изток" ЕАД на техни права и задължения по проекта, това дружество да продължи да упражнява тези права и да изпълнява тези задължения на държавното предприятие по проектните споразумения.

Изпълнението на проекта ще се осъществява и при прилагането на международните договори за насърчаване и защита на инвестициите, по които Република България е страна.

Това писмо за подкрепа е изготвено на български и на английски език, като и двата текста имат еднаква сила. В случай на различие в тълкуването предимство има текстът на български език. Това писмо за подкрепа се подчинява на българското законодателство.

С уважение,

ЗА ПРАВИТЕЛСТВОТО НА РЕПУБЛИКА БЪЛГАРИЯ:

15.05.2001г.

ПЕТЪР ЖОТЕВ

REPUBLIC OF BULGARIA
DEPUTY PRIME MINISTER AND
MINISTER OF ECONOMY

Translation

LETTER OF SUPPORT
(Maritza East 1 Project)

The Government of the Republic of Bulgaria

whereas it recognizes the importance of the project to finance, build and operate a new 670 MW (gross) lignite-fired Thermal Power Plant at Maritza East 1 by the Consolidated Continental Commerce Limited (3-C), Mauritius, and AES-3-C Maritza East 1 EOOD – Gulubovo, Bulgaria,

and having concluded the negotiations and the signature of the following project agreements:

- The Power Purchase Agreement;
- The Lignite Supply Agreement;
- The Transfer Agreement for the site of Maritza East 1-

declares that along with the project implementation it shall:

a) undertake such measures that comply with the existing legislation that in its discretion are economically justifiable and within the range of its powers to ensure the operation of state-owned enterprises under the project agreements;

To:
THE CONSOLIDATED CONTINENTAL COMMERCE LIMITED (3-C), MAURITIUS
AES-3-C MARITZA EAST 1 EOOD – GULUBOVO, BULGARIA
THE LENDERS TO THE PROJECT MARITZA EAST 1

b) *give, in compliance with the Bulgarian law, and as appropriate assist other authorities in giving of any permission, license, consent or concession required for the project implementation;*

c) *abstain from actions that might prevent the parties to the project agreements from performing their obligations;*

d) *ensure in accordance with the provisions of paragraph "a" that another company or companies are designated timely to take over the obligations under the project agreements in the event Natsionalna Elektricheska Kompania EAD or Mini Maritza Iztok EAD are closed down or declared insolvent while they are state-owned entities;*

e) *undertake any actions within its powers that in the event Natsionalna Elektricheska Kompania EAD or Mini Maritza Iztok EAD are privatized, the privatization contract stipulates for the privatized enterprise to continue to exercise all the rights and perform all the obligations of the state-owned enterprise as per the project agreements, as well as in the event of transfer by Natsionalna Elektricheska Kompania EAD or Mini Maritza Iztok EAD to another enterprise of their rights and obligations under the project, that enterprise to continue to exercise all the rights and perform all the obligations of the state-owned enterprise under the project agreements.*

This project shall be implemented also in line with the application of the International Treaties for investment promotion and protection to which the Republic of Bulgaria is a party.

This Letter of Support has been written in Bulgarian and in English language and the two language versions shall be equally valid. If construed differently, the Bulgarian language version shall prevail. This Letter of Support is governed by the Bulgarian law.

Respectfully,

FOR THE GOVERNMENT OF THE REPUBLIC OF BULGARIA:

15.05.2001

PETER JOTEV

APPENDIX T
FINANCIAL MODEL

Dated 20 September 2002

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

- and -

CONSOLIDATED CONTINENTAL COMMERCE LIMITED

- and -

AES-3C MARITZA IZTOK 1 EOOD

AMENDMENT AGREEMENT
relating to a
POWER PURCHASE AGREEMENT
dated 13 June 2001

THIS AMENDMENT AGREEMENT is made as of 20 September 2002

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria ("**Purchaser**"), herein represented by Mr Vasil Anastasov who is duly authorised to represent it in this Agreement;

(2) **AES-3C MARITZA IZTOK 1 EOOD**, a private limited company duly organised and existing under the laws of the Republic of Bulgaria ("**3-C Bulgaria**"), herein represented by Mr Peter Barrett who is duly authorised to represent it in this Agreement; and

(3) **CONSOLIDATED CONTINENTAL COMMERCE LIMITED**, a private limited company duly organised and existing under the laws of Mauritius ("**3-C Mauritius**"), herein represented by Mr Peter Barrett who is duly authorised to represent it in this Agreement.

WHEREAS:

(A) the Purchaser and 3-C Mauritius entered into a power purchase agreement (the "**PPA**") on 13 June 2001 for the implementation of the Project.

(B) 3-C Bulgaria became a party to the PPA by execution of an Accession Undertaking dated 13 June 2001 pursuant to Clause 14.5 of the PPA.

(C) The Parties have agreed to amend the PPA subject to and on the terms of this Agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PPA PROVISIONS

1.1 **Incorporation of Certain Definitions:** Unless the context otherwise requires, capitalised terms used in this Agreement, including the recitals above, shall have the respective meanings given to them in the PPA.

1.2 **Additional Definitions:** Unless the context otherwise requires, the following capitalised terms shall have the respective meanings given to them below when used in this Agreement or in the PPA:

"Amendment Date": 12th August 2002;

"Equity Participation": the legal and beneficial ownership by a Qualifying Participant of:

(a) at least 50% of the voting securities of 3-C Bulgaria; or

(b) at least 50% of the voting securities of a company which owns (directly or indirectly) 100% of the voting securities of 3-C Bulgaria; or

(c) such % of the voting securities of a company as shall give the Qualifying Participant an indirect ownership of at least 50% of the voting securities of 3-C Bulgaria;

"Qualifying Participant": each of:

(a) RWE A.G.; or

(b) ENEL S.p.A.; or

(c) Electricite de France S.A.; or

(d) International Power Plc; or

(e) EnBW A.G.; or

(f) any Affiliate of any of them in which The AES Corporation does not hold any direct or indirect interest.

1.3 **Incorporation of Certain PPA Provisions:** Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Agreement as if set out in full in this Agreement and as if references therein to the PPA were references to this Agreement.

2. AMENDMENT OF THE PPA

2.1 If 3-C Bulgaria complies with its obligation under Clause 2.2, the PPA shall be amended with effect from the Amendment Date in the manner set out in Appendix 1 except to the extent specified in Clause 7 below.

2.2 Within ten (10) Business Days after the date of this Agreement 3-C Bulgaria shall provide to NEK a confirmation letter in the form set out in Appendix 2, duly executed by The AES Corporation.

3 UNUSUAL EVENT NOTICE

3.1 3-C Bulgaria and 3-C Mauritius hereby withdraw the Unusual Event Notice dated 7 February 2002 served by them on the Purchaser and waive all and any rights they might have (if any) as a consequence of the service of such Unusual Event Notice.

3.2 The Purchaser hereby withdraws its notice dated 12th February 2002 served by it on 3-C Bulgaria and 3-C Mauritius in response to the Unusual Event Notice

referred to in Clause 4.1 above and waives all and any rights it may have (if any) as a consequence of the service of such notice.

4. EQUITY PARTICIPATION

4.1 3-C Bulgaria and 3-C Mauritius shall use their respective reasonable endeavours to procure that a Qualifying Participant acquires an Equity Participation in the Project on or before 31 December 2002.

4.2 3-C Bulgaria shall keep NEK fully informed on at least a fortnightly basis about the progress of discussions between it or its Affiliates and any Qualifying Participants in relation to the acquisition of a proposed Equity Participation.

4.3 The Purchaser hereby consents to:

(a) the transfer of the ownership of 100% of the equity capital of 3-C Bulgaria by 3-C Mauritius; and

(b) the novation of the rights and obligations of 3-C Mauritius under the PPA with effect from the date of the PPA;

to a company in which a Qualifying Participant will as a result of the transfer referred to in (a) hold an Equity Participation, provided that such consent shall be conditional upon and shall be with effect from the date on which the Purchaser receives an original counterpart of a novation agreement effecting the novation referred to in (b) which is in form and substance satisfactory to the Purchaser (the Purchaser's agreement to the same not to be unreasonably withheld, conditional or delayed), duly executed by all relevant parties and in full force and effect.

5. CONFIRMATION OF GUARANTEE

3-C Mauritius confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA:

(a) remains in full force and effect notwithstanding the amendment of the PPA by this Agreement; and

(b) will remain in full force and effect notwithstanding the acquisition of an Equity Participation in the Project by a Qualifying Participant.

6. REPRESENTATIONS AND WARRANTIES

6.1 The Purchaser and 3-C Mauritius

The Purchaser and 3-C Mauritius repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Agreement.

6.2 3-C Bulgaria

3-C Bulgaria repeats the representations and warranties contained in paragraph 2 of the Accession Undertaking dated 13 June 2001 between the Purchaser, 3-C Mauritius and 3-C Bulgaria, in each case with reference to the facts and circumstances existing on the date of this Agreement.

7. CONDITION PRECEDENT

The amendments to Clause 14.1(b) in Appendix 1 of this Agreement shall be subject to and conditional upon the prospective Financing Parties (EBRD and KfW) agreeing (1) the terms of the Government Letter of Support for the Project with the Government of Bulgaria (such Government Letter of Support not to constitute a sovereign guarantee) and (2) the contents of a letter with respect to the new National Energy Strategy of Bulgaria for the period commencing 2002.

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Mauritius has caused this Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

SIGNED by Vasil Anastasov, Executive Director)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by Peter Barrett, Executive Director)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK 1 EOOD)

SIGNED by Peter Barrett, Executive Director)
duly authorised for and on behalf of)
CONSOLIDATED CONTINENTAL COMMERCE LIMITED)

APPENDIX 1
AMENDMENTS TO PPA

Clause 1.1

The definition of **"Long Stop Date of Financial Close"** is deleted and replaced with:

"Long Stop Date of Financial Close": 31 December 2002 provided that if a Qualifying Participant acquires an Equity Participation on or before 31 December 2002, 31 December 2002 shall be extended to 30 June 2003 or any earlier date on which the Qualifying Participant ceases to be a Qualifying Participant provided further that such long stop date shall be extended on a Day-for-Day basis until not later than 30th June 2004 in the case of (1) and (2) below or 30th September 2003 in the case of (3) below for each Day:

(1) after the expiry of six (6) Months from the date of submission of the application for the Governmental Approval referred to in Part 1 of Appendix J on which such Governmental Approval remains to be issued (assuming 3-C Bulgaria to be complying with its obligations under Clause 14.1(b) in respect of the condition contained in Clause 14.1(a)(iv)); or

(2) after 31 March 2003 on which the Governmental Approval referred to in Part 2 of Appendix J is not issued; or

(3) during which Financial Close is delayed due to the Purchaser being in breach of its obligations under Clause 14.1(c);

and that: (I) the conditions precedent to the occurrence of the Effective Date contained in Clause 14.1(a) (ii), (iii), (vi), (vii), (ix), (x), (xii) and (xiv) have been satisfied as at 30th June 2003 and (II) all conditions precedent to the initial drawdown of funds under the Financing Agreements have been satisfied or waived by the Financing Parties, other than (in the case of (1) or (2) above) the issue of the relevant Governmental Permit or (in the case of (3) above) the conditions which have not been satisfied solely as a result of the Purchaser being in breach of its obligations under Clause 14.1(c);"

Clause 13.8(b)

The first paragraph shall be amended to read:

"To the extent that an Unusual Event occurs or is continuing on or after the actual or (in the case of Clause 6.5(a)(i)(1)) deemed Date of Commercial Operation (in the case of the First Unit) or the actual or (in the case of Clause 6.5(b)(i)(1)) deemed Date of Full Commercial Operation (in the case of the Second Unit) and during the pendency thereof, the Purchaser shall make payments to 3-C Bulgaria as follows:"

Clause 14.1(b)

"....." is replaced with "..... prior to a Qualifying Participant acquiring an Equity Participation and ..... following a Qualifying Participant acquiring an Equity Participation " in paragraphs (i) and (ii).

The following is inserted after the word "Project" in paragraph (i):

"(excluding any expenditure incurred in connection with the proposed acquisition of an Equity Participation in the Project by a Qualifying Participant or which would not have been incurred but for such acquisition)"

and the final paragraph shall be amended to read

"For this purpose, expenditure connected with the Project incurred since 1st July 1998 shall be taken into account and internal management time of Persons employed by The AES Corporation, and their Affiliates since 1st October 1999, and any Qualifying Participant and their Affiliates from the date of their acquisition of an Equity Participation shall be charged at cost, being one thousand Euros (€ 1,000)/Man-Day."

Clause 14.4

The following words are inserted at the end of paragraph (a):

"If a Qualifying Participant has not acquired an Equity Participation on or before 31 December 2002, any termination notice given under this paragraph (a) shall have immediate effect and the 60 Day cure period referred to in paragraph (ii) shall not apply."

The following words are inserted after the word "Project" in paragraph (b)(II)(1):

"but excluding any expenditure incurred in connection with the proposed acquisition of an equity participation in the Project by a third party or which would not have been incurred but for such acquisition)"

The following words are inserted at the end of paragraph (c):

"If a Qualifying Participant has not acquired an Equity Participation on or before 31 December 2002, any termination notice given under this paragraph (c) shall have immediate effect and the 120 Day cure period referred to herein shall not apply."

Appendix A

"1st January 2000" is replaced with "1st January 2001" in each place where it occurs.

The definition of $\mathbf{F}_{CR}$ is amended as follows to include "**RC**":

"$\mathbf{F}_{CR} = [F_{CR54} + RC] * (1.015)^{Yn}$

where:

"**RC**" is an amount in Euros/MWh proposed by 3-C Bulgaria prior to the Effective Date and approved by the Purchaser, such approval not to be unreasonably withheld or delayed. The amount proposed by 3-C Bulgaria shall be the capital recovery price, reflecting the reasonable capital expenditure incurred by 3-C Bulgaria prior to the Date of Commercial Operation for lignite unloading facilities and the increase in the lignite storage area at the Site from 7 Days' storage to 14 Days' storage in respect of Invoicing Periods expiring during the fifty-four (54) Months following the Effective Date."

Appendix D

The table in paragraph 2 is replaced with the following:

Key Date	**Estimated Date**
Signing of Financing Agreements	by 31 March 2003
Effective Date	by 30 June 2003
Final Notice to Proceed under the EPC Agreement(s)	by 1 July 2003
Unit 1	
First Commissioning Date	by 31 March 2006
Date of Commercial Operation	by 30 June 2006
Unit 2	
Second Commissioning Date	by 30 September 2006
Date of Full Commercial Operation	by 31 December 2006

Appendix J

The table in Appendix J is replaced with the following:

Part 1: Governmental Approvals to be obtained by 3-C Bulgaria	**Part 1: Date by which Governmental Approvals are to be issued**
1.1 Construction Permit pursuant to the Law for the Structure of the Territories (S.G. No 1 of 2001)	31st March 2003
Part 2: Governmental Approvals to be obtained by the Purchaser	**Part 2: Date by which Governmental Approvals are to be issued**

2.1	Permits relating to Interconnection Facilities pursuant to relevant Legal Requirements, including 400kV Transmission Line Permits	31st March 2003

KK

APPENDIX 2
FORM OF CONFIRMATION LETTER

[On The AES Corporation letterhead]

Natsionalna Elektricheska Kompania EAD ("**NEK**")
8 Traditsa Street
1040 Sofia
Bulgaria

Dear Sirs

Guarantee dated 26 June 2001 issued by The AES Corporation ("Guarantor") in favour of NEK (the "Guarantee").

In consideration of good and valuable consideration (the receipt and adequacy of which we acknowledge), we hereby confirm that the Guarantee:

(a) remains in full force and effect notwithstanding the amendment of the PPA by an Amendment Agreement dated September 2002; and

(b) will remain in full force and effect notwithstanding the acquisition of an Equity Participation (as defined in that Amendment Agreement).

THE AES CORPORATION

.....
Name:
Position:
Date:

XX

EXECUTION COPY:

SECOND AMENDMENT AGREEMENT

DATED 21 FEBRUARY, 2005

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

as Purchaser

and

AES-3C MARITZA IZTOK 1 EOOD
as 3-C Bulgaria

and

CONSOLIDATED CONTINENTAL COMMERCE LIMITED
as 3-C Mauritius

relating to a Power Purchase Agreement dated 13th June, 2001

"ЕЙ И ЕС-3С Марица Изток I"
ЕООД
Гълъбово

Galabovo
AES-3C Maritza East I
Limited

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CONTENTS

Clause

		Page
1.	Definitions and Incorporation of Provisions	1
2.	Amendment of the PPA	1
3.	Confirmation of Guarantee	2
4.	Representations, Warranties and Covenants	2
5.	Change of Name and Place of Incorporation	2

Signatories 4

Appendix

1. Amendments to PPA 5

"ЕЙ И ЕС-3С Марица Изток I"
ЕООД
Гълъбово

Galabovo
AES-3C Maritza East I
Limited

THIS SECOND AMENDMENT AGREEMENT is made on 21 February, 2005

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria (**Purchaser**), herein represented by Mr Vasil Anastasov who is duly authorised to represent it in this Second Amendment Agreement;

(2) **AES-3C MARITZA IZTOK 1 EOOD**, a private limited company duly organised and existing under the laws of the republic of Bulgaria (**3-C Bulgaria**), herein represented by Robert F Hemphill Jr who is duly authorised to represent it in this Second Amendment Agreement; and

(3) **CONSOLIDATED CONTINENTAL COMMERCE LIMITED**, a private limited company duly organised and existing under the laws of Mauritius (**3-C Mauritius**), herein represented by Robert F Hemphill Jr who is duly authorised to represent it in this Second Amendment Agreement.

WHEREAS:

(A) the Purchaser and 3-C Mauritius entered into a power purchase agreement (the **PPA**) on 13th June, 2001 for the implementation of the Project.

(B) 3-C Bulgaria became a party to the PPA by execution of an Accession Undertaking dated 13th June, 2001 pursuant to Clause 14.5 of the PPA.

(C) The Parties entered into an amendment agreement (the **First Amendment Agreement**) dated as of 20th September, 2002 in order to amend the PPA.

(D) The Parties have agreed to further amend the PPA subject to and on the terms of this Second Amendment Agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PROVISIONS

1.1 Incorporation of Certain Definitions: Unless the context otherwise requires, capitalised terms used in this Second Amendment Agreement, including the recitals above, shall have the respective meanings given to them in the PPA and the First Amendment Agreement.

1.2 Incorporation of Certain PPA Provisions: Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Second Amendment Agreement as if set out in full in this Second Amendment Agreement and as if references therein to the PPA were references to this Second Amendment Agreement.

2. AMENDMENT OF THE PPA

The PPA shall be amended with effect from the date of this Second Amendment Agreement in the manner set out in Appendix 1.

"ЕЙ И ЕС-3С Марица Изток I" ЕООД
Галабово
Galabovo
AES-3C Maritza East I
Limited

3. CONFIRMATION OF GUARANTEE

3-C Mauritius confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA remains in full force and effect notwithstanding the amendment of the PPA by this Second Amendment Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1 The Purchaser and 3-C Mauritius

The Purchaser and 3-C Mauritius repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Second Amendment Agreement.

4.2 3-C Bulgaria

3-C Bulgaria repeats the representations and warranties contained in paragraph 2 of the Accession Undertaking dated 13th June, 2001 between the Purchaser, 3-C Mauritius and 3-C Bulgaria, in each case with reference to the facts and circumstances existing on the date of this Second Amendment Agreement.

5. CHANGE OF NAME AND PLACE OF INCORPORATION

5.1 Undertakings of 3-C Mauritius

3-C Mauritius undertakes that as soon as is reasonably practicable and in any event by no later than 120 days following the Effective Date:

(a) it will either:

(i) to the extent it is legally possible to do so, cause its place of incorporation to migrate from the Republic of Mauritius to a jurisdiction that is approved by the Purchaser; or

(ii) subject to Clause 5.2 and the consent of the relevant parties, transfer to a company (**AES Transferee**) that is wholly owned (whether directly or indirectly) by The AES Corporation and incorporated in the Republic of Austria, the Kingdom of the Netherlands or such other jurisdiction that is approved by the Purchaser:

(A) all of its shareholdings in 3-C Bulgaria; and

(B) all of its rights and obligations under the PPA and any other Project Agreement to which 3-C Mauritius is a party;

(b) it will either:

(i) in the case of the place of incorporation being migrated pursuant to Clause 5.1(a)(i), change its name to "AES Maritza Holdings" (or a name similar thereto or otherwise approved by the Purchaser);

(ii) in the case of a transfer of rights and obligations under the PPA and the relevant Project Agreements pursuant to Clause 5.1(a)(ii), cause the

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Галабово
Galabovo
AES-3C Maritza East I Limited

registered name of AES Transferee to be "AES Maritza Holdings" (or a name similar thereto or otherwise approved by the Purchaser); and

(c) it will procure that 3-C Bulgaria changes its registered name from "AES 3-C Maritza Iztok I EOOD" to "AES Maritza Iztok I EOOD".

5.2 Undertaking of the Purchaser

The Purchaser:

(a) undertakes not to withhold or unreasonably delay giving any approval requested by 3-C Mauritius pursuant to Clause 5.1 above; and

(b) consents to any transfer by 3-C Mauritius of the rights and obligations of the PPA and other Project Agreements pursuant to Clause 5.1(a)(ii) and undertakes to assist 3-C Mauritius in obtaining the consent of any other party to a Project Agreement to such transfer (to the extent that such consent is required) and to enter into any agreement effecting any such transfer of a Project Agreement to which it is a party provided that such agreement does not alter the rights and obligation of the relevant parties save for substituting 3-C Mauritius with AES Transferee under the relevant Project Agreements.

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Mauritius has caused this Second Amendment Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

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Гълъбово

Galabovo
AES-3C Maritza East I
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SIGNATORIES

SIGNED by Vasil Anastasov, Executive Director)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by Robert F Hemphill Jr R F Hemphill, Jr
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK 1 EOOD)

SIGNED by Robert F Hemphill Jr R F Hemphill, Jr
duly authorised for and on behalf of)
CONSOLIDATED CONTINENTAL COMMERCE LIMITED)

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APPENDIX 1

AMENDMENTS TO PPA

Clause 1.1

The following definitions are inserted in the relevant places in Clause 1.1:

""**Interconnection Agreement**": the agreement to be entered into by the Purchaser and 3-C Bulgaria pursuant to relevant Legal Requirements, which documents the obligations of the Purchaser to construct the Interconnection Facilities in accordance with Clause 4.2 and sets out the costs payable by 3-C Bulgaria in accordance with relevant Legal Requirements;

"**Financial Close Milestone**": the Financial Close Milestone defined thereas in Appendix U;

"**Financial Close Milestone Firm Date**": the date specified as the firm date for completion of Financial Close Milestone as listed in Appendix U;

"**Financing Milestones**": the events listed in Appendix U that 3-C Bulgaria has committed to procure occur by the relevant date listed for each event pursuant to Clause 14.4;

"**Financing Milestone Firm Date**": the date specified as the firm date for completion of the relevant Financing Milestone as listed in Appendix U;

"**Funding**": means the satisfaction (or waiver by the Financing Parties) of all conditions precedent to the initial drawdown of funds under the Financing Agreements other than the occurrence of the Effective Date;

"**Funding Milestone**": the Funding Milestone defined thereas in Appendix U;

"**Funding Milestone Firm Date**": the date specified as the firm date for completion of the Funding Milestone as listed in Appendix U;

"**Government Support Letter**": the letter issued by the Government on the date of the Second Amendment Agreement for the benefit of 3-C Bulgaria and the Financing Parties;

"**Ministry Support Letter**": the letter of comfort issued by the Minister of Energy and Energy Resources on the date of the Second Amendment Agreement.

"**Purchaser Restructuring**": any merger, consolidation, amalgamation, reorganisation, reconstruction of the Purchaser;

"**Second Amendment Agreement**": the second agreement dated 21 February, 2005 between the Parties amending the terms of this Agreement;

"**Standby Letter of Credit**": a guarantee in the form of a standby letter of credit of 3C-Bulgaria's obligations of fifteen million Euros (€15,000,000) to be provided by a bank approved by the Purchaser (such approval not to be unreasonably withheld or delayed) pursuant to Clause 5.1;

"**Underwriters**": consist of those Financing Parties that are underwriting the finance required for implementation of the Project;".

In the definition of **Change in Law** insert at the end of the definition "For the avoidance of doubt, any Legal Requirement that takes effect upon EU Accession shall, notwithstanding that such Legal

"ЕЙ И ЕС-3С Марица Изток I"
ЕООД
Гълъбово
Galabovo
AES-3C Maritza East I

Requirements have been passed or enacted in any Member State of the European Union prior to the date of this Agreement, constitute a Change in Law for the purpose of this Agreement; ".

The definition of **Equity** is amended by replacing the words "providing the Development Performance Guarantee" with "providing the Standby Letter of Credit" and replacing the words "extending the Development Performance Guarantee" with extending the "Construction Performance Guarantee".

The definition of **Development Performance Guarantee** is deleted.

In the definition of **Energy Act** the words "2nd July, 1999" is replaced by the words "9th December, 2003".

The definition of **Financial Close** is deleted and replaced with:

""**Financial Close**": the entry into by 3-C Bulgaria or its Affiliates with the Underwriters (or their agents) of those binding Financing Agreements necessary to document the terms under which debt facilities (other than hedging facilities) are provided for the implementation of the Project".

In the definition of **Site Agreement** insert "or agreements" after " the agreement".

The definition of **Long Stop Date of Financial Close** is deleted and replaced with:

""**Long Stop Date of Funding**": will be the Funding Milestone Firm Date as extended pursuant to Clause 14.1(d), provided that it shall not be extended beyond 30th June 2006;".

The definition of **Project Agreements** is deleted and replaced with:

""**Project Agreements**": this Agreement, the Assignment of Receivables, the EPC Agreement(s), the Financing Agreements, the Fuel Supply Agreements, the Limestone Supply Agreements(s) the O&M Agreement, the Project Services Agreement(s), the Project Support Letter, the Ministry Support Letter, the Rail Transport Agreements, the Site Agreement and the Waste Disposal Agreement;".

In paragraph (i) of the definition of **Testing Factor**, insert the words "or if the construction of a unit has not been completed" after "Purchaser Related Event".

Universal Amendments

Other than where used in the amendments described by this Second Amendment Agreement, replace:

1. "Financial Close" wherever it appears with "Funding".

2. "Long Stop Date of Financial Close" wherever it appears with "Long Stop Date of Funding"

Clause 1.2(f)

The words "reasonable efforts" are deleted from the first line of Clause 1.2(f) and the following words are added after the word "hereunder":

"Where, in this Agreement, an obligation on a Party is qualified by the words "**reasonable efforts**" or any cognate thereof, the Purchaser on the one hand and 3-C Bulgaria and/or 3-C Parent on the other hand (as the case may be) shall be required to take or refrain from taking (as the case may require) such action as is necessary to comply with the obligation, provided that no party shall be obliged to take or refrain from taking such action where to do so would materially and adversely affect its rights or materially increase its obligations (including its costs and expenses) under the terms and provisions

of this Agreement unless the relevant Party is specifically obliged to take such action under this Agreement or by any Legal Requirement".

Clause 1.2(g)

Paragraph (g) of Clause 1.2 shall be replaced by the following:

" (g) where, in this Agreement, an obligation on a Party is qualified by the words **"best efforts"** or any cognate thereof, the Purchaser on the one hand and 3-C Bulgaria and/or 3-C Parent on the other hand (as the case may be) shall be required to take or refrain from taking (as the case may require) action as is necessary to comply with the obligations (and notwithstanding that such action may materially adversely affect its rights or materially increase its obligations (including its costs and expenses) under the terms and provisions of this Agreement in complying with such obligation), provided always that no Party shall be obliged to take or refrain from taking any action that would contravene or breach any Legal Requirement;".

Clause 3.4 (b)

Delete the existing clause 3.4 (b) and replace with the following:

"To the extent that Legal Requirements requires 3-C Bulgaria as owner of the Complex to make payments for connection of the Complex to the Grid System, 3-C Bulgaria shall make such payments, which shall include any amount that 3-C Bulgaria is required to pay for the Purchaser's actual cost of construction of the Interconnection Facilities pursuant to the Interconnection Agreement.".

Clause 4.1 (d)

The following new Clause 4.1(d) shall be inserted after Clause 4.1(c):

"(d) The Purchaser shall notify 3-C Bulgaria in writing of any Purchaser Restructuring at least sixty (60) days prior to the date that such Purchaser Restructuring is scheduled to occur, be enacted or take place.".

Clause 4.2 (a)

Insert the words "in respect of costs prior to the Date of Full Commercial Operation" after "Clause 3.4(b)".

Clause 5

Clause 5.1 shall be deleted and replaced by the following new Clause 5.1:

"**5.1 Standby Letter of Credit:**

(a) Within ten (10) Business Days of the date of the Second Amendment Agreement Bulgaria shall provide to the Purchaser the first Standby Letter of Credit in the form included in Appendix V as security for the performance by 3-C Bulgaria of its obligations in Clause 14.4(a). Upon receipt by the Purchaser of the first Standby Letter of Credit, it is agreed that The AES Corporation is irrevocably and unconditionally released and discharged from all of its obligations under the guarantee dated 26 June, 2001 given by The AES Corporation in favour of the Purchaser it in respect of 3-C Bulgaria's obligations under Clause 14.4(a) and the Purchaser shall forthwith return such guarantee to 3-C Bulgaria (on behalf of The AES Corporation). The Purchaser may only draw on a Standby Letter of Credit

"ЕЙ И ЕС-ЗС Марица Изток I" ЕООД Галабово AES-3C Maritza East I

provided by 3-C Bulgaria pursuant to Clause 5.1 if either (i) the sum of €15,000,000 is due and payable by 3-C Bulgaria to the Purchaser pursuant to Clause 14.4(a) or (ii) 3-C Bulgaria is obliged to replace or extend a Standby Letter of Credit pursuant to Clause 5.1(c) and 3-C Bulgaria has not extended or replaced that Standby Letter of Credit by the date falling thirty (30) days prior to the expiration of that Standby Letter of Credit.

(b) Each Standby Letter of Credit shall on issue have an expiry date falling no earlier than the first Day of the immediately succeeding year.

(c) 3-C Bulgaria shall, subject to Clause 5.1(d), ensure that no later than thirty (30) Days prior to the expiration of any Standby Letter of Credit, a replacement Standby Letter of Credit or extension of the existing Standby Letter of Credit shall be issued in favour of the Purchaser.

(d) Any unexpired Standby Letter of Credit shall be returned to 3-C Bulgaria, and the obligation to provide a replacement Standby Letter of Credit or an extension of an existing Standby Letter of Credit pursuant to Clause 5.1(c) shall cease, upon the earlier of (i) the date that is 3 months after the Longstop Date for Financial Close and (ii) the occurrence of the Effective Date.

(e) If any Standby Letter of Credit has not been replaced or extended in accordance with Clause 5.1(c) and the Purchaser draws the full amount of such Standby Letter of Credit , then the Purchaser shall hold such amount as security for 3-C Bulgaria's obligations under Clause 14.4(a). If €15,000,000 becomes due and payable by 3-C Bulgaria to the Purchaser pursuant to Clause 14.4(a), the amount held by the Purchaser as security shall be applied by the Purchaser in discharging in full the amount that is payable by 3-C Bulgaria pursuant to Clause 14.4(a).

(f) Any amount held by the Purchaser as security 3-C Bulgaria's obligations under Clause 14.4 pursuant to Clause 5.1(e) shall be returned to 3-C Bulgaria if either (i) a replacement Standby Letter of Credit has been delivered to the Purchaser or (ii) to the extent that it has not been applied against amounts owing by 3-C Bulgaria under Clause 14.4(a) on the earlier of (A) the date that is 3 months after the Longstop Date for Funding and (B) the occurrence of the Effective Date.".

Clause 13.8(b)(i)(II)

Insert the words ", which results, at the time it occurs or any time thereafter in the Bulgarian Authority Action, Bulgarian Incident or Force Majeure Event occurring," after "relevant event or occurrence".

Clause 14.1(a)

Clause 14.1(a)(i) shall be deleted and replaced by the following new Clause 14.1(a)(i):

"(i) Financial Close and Funding being achieved;".

Clause 14.1(a)(ii) shall be deleted and replaced by the following new Clause 14.1(a)(ii):

"(ii) the Parties having:

(1) agreed the final form of the Legal Opinions and the Direct Agreement which the Parties agree to enter into and/or issue prior to Financial Close;

"ЕЙ И ЕС-3С Марица Изток I" ЕООД
Гълъбово
Galabovo
AES-3C Maritza East I
Limited

(2) executed all necessary Site Agreements to transfer all portions of the Site; and

(3) entered into a binding Interconnection Agreement;".

The following shall be added at the end of Clause 14.1(a)(iii):

"(the Parties hereby acknowledge that such approval must be in relation to the then current application of F_{CR})".

Clause 14.1(b)

Clause 14.1(b) shall be deleted and replaced by the following new Clause 14.1(b):

"(b) 3-C Bulgaria shall use:

(i) all reasonable efforts to satisfy or procure to be satisfied the foregoing conditions contained in Clauses 14.1(a)(i), (iii), (iv), (vi), (vii), (ix), (x), (xii) and (xiv);

(ii) use best efforts to satisfy or procure to be satisfied the conditions contained in Clauses 14.1(a)(ii) (1) by 30th June 2005; and

(iii) use best efforts to satisfy or procure to be satisfied the conditions contained in Clauses 14.1(a)(ii) (2) and (3) by 30 June 2005 provided that, nothing in this Agreement shall require 3-C Bulgaria to pay:

(1) in respect of that portion of the Site owned by Brikel AD (**"Brikel Portion"**), a price which is higher than the amount that the Purchaser paid to purchase the Brikel Portion from Brikel AD which shall be the average of the 2 (two) valuations issued by valuers duly licensed pursuant to the Regulation on Analyses of Legal Status and Privatisation Valuations and on Terms and Procedure for Licensing of Valuers, 2002 of which 1 (one) is appointed by the Purchaser and one is or may be appointed by Brikel EAD; and

(2) in respect of that portion of the Site owned by the Purchaser, a price which is higher than the average of the 2 (two) valuations issued by such duly licensed valuers of which 1 (one) is appointed by the Purchaser and one is appointed by 3-C Bulgaria,

In the event that the higher of the valuations conducted by each parties respective appointed licensed valuers for a portion of the Site pursuant to Clause 14.1 (b) (iii) (1) and (2) is greater than the lower of the valuations by more than 50% of the lower valuation, the valuations shall be rejected and new duly licensed valuer's shall be appointed by the parties and the valuation procedure in Clauses 14.1 (b) (iii) (1) and (2) shall be repeated. This process shall be repeated as many times as necessary until compliance with this paragraph is achieved.

It is understood that the Site Agreements which relate to the portion of the Site owned by the Purchaser shall provide that the parties' obligations thereunder shall become effective only upon 3-C Bulgaria acquiring the portion of the Site owned by Brikel AD on the terms set out in sub-Clause 14.1.(b)(iii).".

АЕС-3С Марица Изток II
ЕООД
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Galabovo
AES-3C Maritza East I
Limited

Clause 14.1(c)

Clause 14.1(c) shall be deleted and replaced by the following new Clause 14.1(c):

"(c) The Purchaser shall:

(i) use all reasonable efforts to satisfy or procure to be satisfied the foregoing conditions contained in Clauses 14.1(a)(iii), (v), (vi), (viii), (ix), (xi) and (xii);

(ii) use best efforts to satisfy or procure to be satisfied the conditions contained in Clauses 14.1(a)(ii)(1) by 30th June 2005; and

(iii) use best efforts to:

(I) acquire the rights and title to the entire Site (including the Brikel Portion) by 30 June 2005 provided that the Purchaser is obligated to purchase the Brikel Portion for a purchase price not higher than that determined in accordance with the valuation methodology in Clause 14.1(b)(iii) unless 3-C Bulgaria waives (in writing) the limitation in Clause 14.1(b)(iii) and

(II) subject to Clause 14.1(b)(iii) satisfy or procure to be satisfied the conditions contained in Clauses 14.1(a)(ii) (2) by 30th June 2005.".

Clause 14.1(d)

The following new Clause 14.1(d) shall be inserted after Clause 14.1(c):

"(d) If, before the expiry of any Financing Milestone Firm Date:

(i) (I) any of the Government Approvals are not delivered or completed by the due date indicated therefor in Appendix J; or

(II) the conditions contained in Clause 14.1(a)(ii) (1), (2) and (3) are not satisfied by 30 June, 2005,

then that Financing Milestone Firm Date shall be extended by the number of Days between the due date for delivery, or satisfaction of the relevant Government Approval, condition or action and the date on which such Government Approval, condition or action is actually delivered, satisfied or performed; and/or

(ii) due to the occurrence of a Purchaser Related Event 3-C Bulgaria is unable to achieve a Financing Milestone by the relevant Financing Milestone Firm Date, then such date shall be extended by the number of Days 3-C Bulgaria was delayed in achieving the relevant Financing Milestone by such Purchaser Related Event; and/or

(iii) due solely to the occurrence of a relevant 3-C Bulgaria Event of Default a Financing Milestone is not achieved by the relevant Financing Milestone Firm Date, then such date shall not be extended unless extended pursuant to Clauses 14.1 (d) (i) and (ii) or the Purchaser and 3-C Bulgaria agree otherwise.".

ЕВР ЕС-3С Марица Изток I
Гълъбово
Galabovo
AES-3C Maritza East I
Limited

Clause 14.4

The first and second line of Clause 14.4 are deleted and replaced with:

"**Long Stop:** If Financial Close has not occurred by the Financial Close Milestone Firm Date as extended pursuant to Clause 14.1 (d) or Funding has not occurred by the Long Stop Date of Funding:".

Clause 14.4(a)

The words from "If a Qualifying Participant" to the end of Clause 14.4(a) are replaced by the following words:

"If the amount due under Clause 14.4(a)(ii) is satisfied by a drawing under the Standby Letter of Credit, the liability of 3-C Bulgaria shall be discharged pro tanto. If 3-C Bulgaria discharges the amount due under Clause 14.4(a)(ii) in full or if 3-C Bulgaria is not liable for any amount under Clause 14.4(a)(ii) no demand may be made under the Standby Letter of Credit and the Purchaser shall return the original of the Standby Letter of Credit to 3-C Bulgaria.".

Clause 14.4(b)

The words from "but excluding" to "such acquisition)" are deleted from the end of Clause 14.4(b)(II)(1). A new Clause 14.4(b)(IV) is added to the end of Clause 14.4(b) as follows:

"(IV) the Standby Letter of Credit provided to the Purchaser pursuant to Clause 5.1 shall immediately be returned to 3-C Bulgaria; and".

Clause 14.4(c)

In Clause 14.4(c) "the Effective Date" is replaced with "Financial Close or the Effective Date (as the case may be)" and the words from "If a Qualifying" to the end of Clause 14.4(c) are deleted.

Clause 14.6

Reference to Clause "3.1" and "13.1 to 13.7" are added in the appropriate places in the first list of clause references.

Clause 15.1(c)

Add the word "15.5(d)," after the word "Clauses" in Clause 15.1(c).

Clause 15.3 (j)

Add at the end of Clause 15.3 (j) the following words:

" or 3-C Bulgaria or 3-C Parent makes an application to a competent Bulgarian court to amend or vary or terminate this Agreement (in whole or in part) pursuant to Article 307 of the Commerce Act 1991, as amended and the competent Bulgarian court issues a non-appeallable decision or ruling amending or varying this Agreement in a manner which is unacceptable to the Purchaser, provided that if such application seeks amendment or variation of the provisions of this Clause 15, then the Purchaser shall be entitled to terminate this Agreement in accordance with Clause 15.5 notwithstanding that such a non-appeallable decision or ruling has not been issued".

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Гълъбово
Galabovo
AES-3C Maritza East I
Limited

Clause 15.4(e)

Clause 15.4(e) is deleted and replaced by the following new Clause 15.4(e):

"(e) any Purchaser Restructuring occurs, is enacted or takes place and the party obliged to perform the obligations of the Purchaser under this Agreement as a result of such Purchaser Restructuring has a credit standing lower than Natsionalna Elektricheska Komapnia EAD had at the date of the Project Support Letter ;".

Clause 15.4(g)

Clause 15.4(g) deleted and replaced by the following new Clause 15.4(g):

"(g) the Government fails to honour its commitments under the Project Support Letter or the Minister of Energy and Energy Resources fails to honour its commitments under the Ministry Support Letter (each in accordance with its terms) or the Government amends, modifies, suspends, withdraws or cancels the Project Support Letter or the Minister of Energy and Energy Resources amends, modifies, suspends, withdraws or cancels the Ministry Support Letter".

Clause 15.4(i)

Add at the end of Clause 15.4(i) the following words:

" or the Purchaser makes an application to a competent Bulgarian court to amend or vary or terminate this Agreement (in whole or in part) pursuant to Article 307 of the Commerce Act 1991, as amended and the competent Bulgarian court issues a non-appeallable decision or ruling amending or varying this Agreement in a manner which is unacceptable to the 3-C Bulgaria, provided that if such application seeks amendment or variation of the provisions of this Clause 15, then 3-C Bulgaria shall be entitled to terminate this Agreement in accordance with Clause 15.5 notwithstanding that such a non-appeallable decision or ruling has not been issued".

Clause 15.5

Clause 15.5 is amended:

(a) by adding the following words at the beginning of Clause 15.5(a) "subject always to Clause 15.5(d),"

(b) by adding a new sentence at the end of Clause 15.5(a):

". If the 3-C Event of Default or the Purchaser Event of Default relates to an application to a competent Bulgarian court to amend or vary or terminate this Agreement (in whole or in part) pursuant to Article 307 of the Commerce Act 1991, as amended, this Agreement shall terminate immediately on receipt by the defaulting Party of the Notice of Intent to Terminate. Clauses 15.5(b) and (c) shall not apply to such 3-C Event of Default or such Purchaser Event of Default or to a Purchaser Event of Default specified in Clause 15.4(e)".

(c) by deleting in the fourth line of Clause 15.5(b) the words "Clause 15.4(a) to (g) and (j)" and replacing them with the words "Clause 15.4(a) to (d), (f), (g) and (j)" and adding at the end of Clause 15.5(b) the words "(other than any 3-C Event of Default and any Purchaser Event of Default referred to in the final two sentences of Clause 15.5(a))".

(d) by adding the following words at the beginning of Clause 15.5(b) and (c):

ЕВР И ЕО ОС Марица Изток I" ЕООД Гълъбово
Galabovo AES-3C Maritza East I Limited

" subject to Clause 15.5(a) , "

(e) The following new Clause 15.5(d) shall be inserted after Clause 15.5(c):

"(d) Notwithstanding anything to the contrary on this Agreement, in the case of a Purchaser Event of Default specified in Clause 15.4(e), this Agreement shall terminate and be deemed to terminate on the Business Day that immediately precedes the date on which the Purchaser Restructuring occurs, is enacted or takes place.".

Clause 20

Clause 20.1 is amended by:

(a) deleting the words ", prior to EU Accession," in the first line;

(b) deleting sub paragraph (i) and re-numbering sub paragraphs (ii) and (iii) as sub paragraphs (i) and (ii) respectively;

(c) adding at the end of the Clause the following words:

"The obligations of the Purchaser under this Clause are in addition to and without prejudice to the Purchaser's obligations under Clause 4.1(d).".

Appendix A

In the definition of $\mathbf{FCP_m}$, the formula for the calculation of $\mathbf{FCP_m}$ is deleted and replaced with:

$$\text{"}\mathbf{FCP_m} = (\mathbf{F_{CR}} + \mathbf{F_{FCm}} - \mathbf{ITRA_n}) \times \mathbf{AP}\text{"}$$

The following definition of $\mathbf{ITRA_n}$ is inserted after the definition of **AP** but before the definition of $\mathbf{F_{CR}}$.

"$\mathbf{ITRA_n}$ is the Income tax rate adjustment for the Operation Year n in Euro/MWh and may be negative or positive depending on the applicable AIT_n. For the avoidance of doubt any Change in Law relating to Taxes, other than a change in the corporate income tax rate, is subject to Clause 10.7 of the Agreement.

$$\mathbf{ITRA_n} = \frac{\mathbf{EBT_n} \times (\mathbf{RIT} - \mathbf{AIT_n})}{(1 - \mathbf{AIT_n}) \times \mathbf{AC_n}}$$

where:

$\mathbf{EBT_n}$ Earnings Before Tax in year n as given in the following table in Euro.

RIT Reference Income Tax Rate, equal to 23.5%

$\mathbf{AIT_n}$ Actual Income Tax Rate (%) is the applicable income tax rate imposed by Bulgarian Authorities for the relevant Operation Year. If the tax rate changes during an Operation Year, ITRAn shall be calculated at the relevant tax rate applying to the period of the Operation Year before or after such change using a pro-rata allocation of EBT across such periods.

$\mathbf{AC_n}$ the sum of $\mathbf{AC_i}$ for all Availability Periods in year n – all available Contacted Capacity for Unit 1 and Unit 2 (MWh)

"ЕМ И ЕС-3С Марица Изток I" ЕООД
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Galabovo
AES-3C Maritza East I Limited

n is the relevant Operation Year

Operation Year means each Year starting on the Date of Full Commercial Operation or on each anniversary of the Date of Full Commercial Operation.

Operation Year (n)	Earnings Before Tax in Euro (EBTn)
1	4,906,290
2	0
3	0
4	25,057,542
5	76,637,975
6	83,757,095
7	63,991,384
8	70,722,284
9	105,441,414
10	113,095,969
11	112,371,209
12	166,184,196
13	187,484,103
14	190,693,035
15	163,520,919.

The definition of F_{CR} is deleted and replaced with the following:

"$F_{CR} = [F_{CR54} + RC$ - Interest Adjustment FC$]*(E)^{Yn}$ - **Interest Adjustment RF**".

In the definition of F_{CR54} "€32.750/MWh" is replaced with "€27.83/MWh".

The definition of "**RC**" is replaced with the following new definition of "**RC**":

"**RC** is the additional capital recovery price in Euro/MWh required to recover the following additional capital expenditures that it is agreed by the Parties will be incurred prior to achieving commercial operation:

(i) the amount in Euros required to include lignite unloading facilities and to increase the lignite storage area of the Site from seven Days storage to 14 days storage. This cost is currently estimated to be €15,000,000. The actual amount will be approved by Purchaser based on the submission of actual invoices documenting the additional cost to 3-C Bulgaria of providing such lignite unloading facilities and the increased lignite storage area, such approval not to be unreasonably delayed or withheld, and in any case will be deemed approved if after 30 days of submitting such invoices, the Purchaser has not objected to such claim.

(ii) the amount in Euros required to include heavy fuel oil unloading and storage facilities. This cost is currently estimated to be €3,000,000. The actual amount will be approved by Purchaser based on the submission of actual invoices documenting the additional cost to 3-C Bulgaria of providing heavy fuel oil unloading and storage facilities, such approval not to be unreasonably delayed or withheld, and in any case will be deemed approved if after 30 days of submitting such invoices, the Purchaser has not objected to such claim.

ЕВРО-3С Марица Изток I"
Гълъбово
Galabovo
AES-3C Maritza East I
Limited

(iii) the amount in Euros required to install more efficient Sox removal equipment. This cost is currently estimated cost to be €8,000,000. The actual amount will be approved by Purchaser based on the submission of actual invoices documenting the additional cost to 3-C Bulgaria of providing such higher efficiency SOx removal equipment, such approval not to be unreasonably delayed or withheld, and in any case will be deemed approved if after 30 days of submitting such invoices, the Purchaser has not objected to such claim.

(iv) if the amount 3-C Bulgaria must pay pursuant to the Site Agreement to acquire title in the Site, as well as acquire easements, right of ways and site services and other rights which are required pursuant to Clause 14.1(a)(xiii), is in excess of 5,000,000 Lev, then an amount in Euro equal to such excess.

(v) the actual amount in Euros paid to the Purchaser for connection of the Complex to the Grid System pursuant to clause 3.4 (b).

(vi) the amount of any additional capital expenditure agreed with NEK as required for the Complex.

RC shall be calculated as follows:

$$RC = \sum RC_i$$

$$RC_i = 1.135 x \frac{ACE_i}{26,000,000}$$

where:

RC Additional capital recovery price in Euro/MWh

RC_i Additional capital recovery price for item i. Each of the amounts in paragraphs (i) to (v) (inclusive) above are items

ACE_i Additional capital expenditure for item i".

In the definition of "**F_{CR}**" the following definitions of **E**, **Interest Adjustment FC** and **Interest Adjustment RF** are included after the definition of **Yn**:

"**E** is determined as follows:

i) for the first 126 months after the Effective Date, 1.0349; and

ii) for the period thereafter, 1.015.

Interest Adjustment FC is equal to €0.82/MWh.

Interest Adjustment RF is determined as follows:

i) From the Effective Date to the date of any Refinancing Interest Adjustment RF is equal to zero.

ii) From the date of any Refinancing for the remainder of the Term or until the date of any subsequent Refinancing,

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Interest Adjustment RF = 50% x (Monthly Adjustment/Monthly Capacity)

If the Monthly Adjustment is less than zero, the Interest Adjustment RF shall be zero.

For the purposes of determining the Interest Adjustment FC or Interest Adjustment RF only, the following definitions apply in additions to those listed in Clause 1.1 of the Agreement:

"Refinancing" occurs when:

i) new Financing Agreements are entered into with either new or existing Financing Parties ("Refinancing Agreements") for the purpose of replacing any previously existing Financing Agreements; and

ii) debt is drawn down under such Refinancing Agreements and some or all of the proceeds are used to prepay all or part of the outstanding debt under the previous Financing Agreements; and

iii) all or part of such previous Financing Agreements have been terminated (other than the interest rate hedging agreements)

iv) any amendment is made to the interest rate payable under a Financing Agreement.

"Monthly Adjustment" is the constant payment in Euro calculated by converting the $PV_{Interest}$ into a fixed monthly amount applicable from the date of financial close of the Refinancing to the end of the Term calculated at a constant interest rate of 17.5% per annum. This amount shall be the fixed payment resulting from applying the *PMT* function in *Microsoft Office Excel 2003* where:

rate	=	$(1+17.5\%)^{1/12}-1$.
nper	=	the number of months between the date of financial close of the Refinancing and end of the Term.
pv	=	$PV_{Interest}$
fv	=	0
type	=	0

"Monthly Capacity" is 382870MWh, being the average Available Contracted Capacity for each month of the Term under the Financial Model from the Date of Full Commercial Operation.

"$PV_{Interest}$" is the present value (in Euro), of the Interest Amounts calculated for each debt repayment date under the Refinancing BCM for the period starting from the date of the Refinancing to the end of the Term by multiplying:

a) the product of the Change in Interest Rate and the Debt Ratio; and

b) by the outstanding debt balance according to the Refinancing BCM for the repayment period immediately prior to each repayment date (and prior to the relevant repayment),

(i.e. Interest Amount = Change in Interest Rate * Debt Ratio * outstanding refinancing debt at each debt repayment date under the Refinancing BCM).

The present value calculation of $PV_{Interest}$ shall be determined using the *XNPV* function in *Microsoft Office* Excel *2003*, using a discount rate of 17.5% per annum where the zero payment date is the date of Refinancing with payment at zero payment date equal to 0.

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Limited

"Debt Ratio" is the outstanding debt immediately prior to the date of Refinancing according to the Original BCM divided by the debt outstanding immediately after the date of Refinancing pursuant to the Refinancing BCM. (i.e. Debt Ratio = Outstanding Original Debt / Refinancing Debt).

"Change in Interest Rate" is determined by subtracting the Refinancing Interest Rate from the Original Interest Rate (i.e. Change in Interest Rate = Original Interest Rate - Refinancing Interest Rate).

"Original Interest Rate" is calculated by reference to the debt assumptions in the base case model agreed with the Financing Parties at Funding pursuant to the Financing Agreements then applicable ("Original BCM"). The interest rate will be determined by calculating the internal rate of return on the debt outstanding at the time of the Refinancing pursuant to the Original BCM, with the return to the Financing Parties being considered to consist of all financing related fees, debt insurance premiums, interest rates, margins, whether payable to the Financing Parties or any insurer of the debt provided by the Financing Parties, that would have been payable after the date of Refinancing had the Refinancing not occurred. The timing of all payments will be as per the Original BCM.

"Refinancing Interest Rate" is calculated by reference to the debt assumptions in the base case model agreed with the Financing Parties to the Refinancing pursuant to the Financing Agreements then applicable ("Refinancing BCM"). The interest rate will be determined by calculating the internal rate of return on the debt drawn down pursuant to the Refinancing BCM, with the return to the Financing Parties being considered to consist of all financing related fees, debt insurance premiums, interest rates, margins, whether payable in advance or otherwise to the Financing Parties or any insurer of the debt provided by the Financing Parties or any unwinding costs/profits from the Original Debt. The timing of all drawdowns and payments will be as per the Refinancing BCM.".

In the proviso to the definition of FCR in part 1 of Appendix A paragraph (1) (Variation in Cost of Financing) is deleted and paragraph (2) (Capital Cost Contingency) is amended by inserting the words : " save where such disbursement is as a result of the Contract Price being greater than €698,000,000 due to any increase in the Contract Price as a result of any notice to proceed being given to the EPC Contractor later than the date specified in the EPC Contract," before the words "be adjusted" in the fourth line.

Appendix D

The table in paragraph 2 is replaced with the following:

"Key Date	**Estimated Date**
Underwriting mandate entered into with commercial lenders	31st December, 2004
Detailed term sheet agreed with the Underwriters	30th April, 2005
Financial Close	by 30th June, 2005
Effective Date	by 30th September, 2005
Final Notice to Proceed under the EPC Agreement(s)	by 30th September, 2005
Unit 1	
First Commissioning Date	by 30th June, 2008
Date of Commercial Operation	by 30 September, 2008

ЕВР ИНВЕСТ "Марица Изток I" ЕООД Гълъбово
Galabovo AES-3C Maritza East I Limited

Unit 2

Second Commissioning Date	by 31st December, 2008
Date of Full Commercial Operation	by 31st March, 2009".

Appendix G

Paragraph 5.2 of Appendix G shall be modified as follows:

"Based on the Declared Net Availability Plan for that Calendar Year referred to in Paragraph 4.2 above, the Purchaser's dispatch centre will provide to 3-C Bulgaria in writing by 30th September prior to the beginning of each Calendar Year, an estimate of the required Net Electrical Energy Output from each Unit for each Month in that Calendar Year. Such notification shall be in the form contained in Annex G-2 of this Appendix.

The Minimum Monthly Quantity in respect of each Month shall be calculated in accordance with the following formulae:

(a) in respect of the period between the Date of Commercial Operation and the Date of Full Commercial Operation:

$$MMQ = 1{,}578{,}250 \times \frac{NEEO}{AVNEEO}$$

where:

MMQ is the Minimum Monthly Quantity for that month in MWh.

NEEO is the estimate provided by the Purchaser of the required Net Electrical Energy Output from the First Unit for that month in MWh.

AVNEEO is the total of the Purchaser's estimates of Net Electrical Energy Output from the first Unit for each month of the relevant Calendar Year (or part thereof), divided by the number of months during that Calendar Year (or part thereof) in MWh.

(b) in respect of any period subsequent to the Date of Full Commercial Operation:

$$MMQ = 3{,}156{,}500 \times \frac{NEEO}{AVNEEO}$$

where:

MMQ is the Minimum Monthly Quantity for that month in MWh:

NEEO is the estimate provided by the Purchaser for the required Net Electrical Energy Output from both Units for that month in MWh.

AVNEEO is the total of the Purchaser's estimates of Net Electrical Energy Output from both Units for each month of the relevant Calendar Year (or part thereof), divided by the number of months during that Calendar Year (or part thereof) in MWh.".

Appendix J

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The table in Appendix J is replaced with the following:

"Governmental Approvals to be obtained by 3-C Bulgaria		Date by which Governmental Approvals are to be issued
1.1	Construction Permit pursuant to the Territorial Development Act 2001 (S.G. No 1 of 2001) (as amended)	30th June 2005
1.2	Integrated Environmental Permit pursuant to the Environment Protection Act 2002 (S.G. No 91 of 2002) (as amended)	31st May 2005".

Appendix N

Appendix N is deleted in its entirety.

Appendix T

The following new Appendices U and V are added after Appendix T:

"ЕЙ И ЕС-3С Марица Изток I" ЕООД
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APPENDIX U

FINANCING MILESTONE EVENTS

Financing Milestone Event	Firm Date for Completion
Financial Close occurs (the **Financial Close Milestone**)	15th July, 2005
Funding occurs (the **Funding Milestone**)	31st December, 2005

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APPENDIX V

FORM OF STANDBY LETTER OF CREDIT

To: Natsionalna Elektricheska Kompania EAD
(the **Beneficiary**)

[DATE]

Irrevocable Standby Letter of Credit no. [ ]

At the request of AES-3C Maritza Iztok 1 EOOD, [LENDER] (the **Lender**) issues this irrevocable standby letter of credit (**Letter of Credit**) in your favour on the following terms and conditions:

1. Definitions

In this Letter of Credit:

Business Day means a day (other than a Saturday or a Sunday) on which banks are open for general business in London.

Demand means a demand for a payment under this Letter of Credit in the form of the Schedule 1 to this Letter of Credit (where the sum of €15,000,000 is due to the Beneficiary under Clause 14.4(a) of the PPA) or a demand for payment under this Letter of Credit in the form of Schedule 2 to this Letter of Credit (where this Letter of Credit has not been extended or replaced with a new standby letter of credit in accordance with Clause 5.1(c) of the PPA).

Expiry Date means [ ].

L/C Amount means €15,000,000.

PPA means the power purchase agreement entered into between the Beneficiary, Consolidated Continental Commerce Limited and AES-3C Maritza Iztok 1 EOOD dated 13th June, 2001 as subsequently amended.

2. Lender's agreement

(a) The Beneficiary may request one drawing only under this Letter of Credit by giving to the Lender a duly completed Demand. A Demand may not be given after the Expiry Date.

(b) Subject to the terms of this Letter of Credit, the Lender unconditionally and irrevocably undertakes to the Beneficiary that, within ten Business Days of receipt by it of a Demand validly presented under this Letter of Credit, it must pay to the Beneficiary the amount which is demanded for payment in that Demand.

(c) The Lender will not be obliged to make a payment under this Letter of Credit if the payment made by it under this Letter of Credit would exceed the L/C Amount.

"ЕЙ И ЕС-3С Марица Изток I" ЕООД
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Galabovo
AES-3C Maritza East I
Limited

3. **Expiry**

(a) On [ ] pm ([London] time) on the Expiry Date the obligations of the Lender under this Letter of Credit will cease with no further liability on the part of the Lender except for any Demand validly presented under the Letter of Credit that remains unpaid.

(b) The Lender will be released from its obligations under this Letter of Credit on the date prior to the Expiry Date (if any) notified by the Beneficiary to the Lender as the date upon which the obligations of the Lender under this Letter of Credit are released.

(c) When the Lender is no longer under any obligation under this Letter of Credit, the Beneficiary must return the original of this Letter of Credit to the Lender.

4. **Payments**

All payments under this Letter of Credit must be made in Euros and for value on the due date to the account of the Beneficiary specified in the Demand.

5. **Delivery of Demand**

Each Demand must be in writing, and may be given in person, by post or fax and must be received by the Lender at its address as follows:

[

]

For the purpose of this Letter of Credit, electronic communication will be treated as being in writing.

6. **Assignment**

The Beneficiary's rights under this Letter of Credit may not be assigned or transferred.

7. **ISP**

Except to the extent it is inconsistent with the express terms of this Letter of Credit, this Letter of Credit is subject to the International Standby Practices 1998 (International Chamber of Commerce Publication No. 590).

8. **Governing Law**

This Letter of Credit is governed by English law.

9. **Jurisdiction**

The English courts have exclusive jurisdiction to settle any dispute in connection with this Letter of Credit.

Yours faithfully,

[LENDER]

By:

"ЕЙ И ЕС-3С Марица Изток I" ЕООД
Гълъбово

Galabovo
AES-3C Maritza East I
Limited

SCHEDULE 1

FORM OF NON-PAYMENT DEMAND

To: [LENDER]

[DATE]

Dear Sirs

Irrevocable Standby Letter of Credit no. [ ] issued in favour of Natsionalna Elektricheska Kompania EAD (the Letter of Credit)

We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

1. We certify that:

   (a) we have validly terminated the PPA in accordance with Clause 14.4(a) thereof; and

   (b) the sum of €15,000,000 is due to us under Clause 14.4(a) of the PPA and has remained unpaid for at least 5 Business Days.

   We therefore demand payment of the sum of €15,000,000.

2. Payment should be made to the following account:

   Name: Natsionalna Elektricheska Kompania EAD

   Account Number:

   Bank:

3. The date of this Demand is not later than the Expiry Date.

Yours faithfully

(Authorised Signatory) (Authorised Signatory)

For
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

"ЕЙ И ЕС-3С Марица Изток I" ЕООД
Гълъбово

Galabovo
AES-3C Maritza East I
Limited

SCHEDULE 2

FORM OF NON-REPLACEMENT DEMAND

To: [LENDER]

[DATE]

Dear Sirs

Irrevocable Standby Letter of Credit no. [ ] issued in favour of Natsionalna Elektricheska Kompania EAD (the **Letter of Credit**)

We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

1. We certify that:

   (a) the Letter of Credit has not been replaced in accordance with Clause 5.1(c) of the PPA; and

   (b) 3-C Bulgaria's obligation to replace or extend this Standby Letter of Credit has not ceased pursuant to Clause 5.1(d) of the PPA; and

   (c) the demand for payment being made under the Letter of Credit is being made no earlier than 10 Business Days prior to the Expiry Date.

   We therefore demand payment of the sum of €15,000,000.

2. Payment should be made to the following account:

   Name: Natsionalna Elektricheska Kompania EAD

   Account Number:

   Bank:

3. The date of this Demand is not later than the Expiry Date.

Yours faithfully

(Authorised Signatory) (Authorised Signatory)

For
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

"ЕЙ И ЕС-3С Марица Изток I" ЕООД
Гълъбово

Galabovo
AES-3C Maritza East I
Limited

THIRD AMENDMENT AGREEMENT

DATED 30.11. 2005

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

as Purchaser

and

AES-3C MARITZA IZTOK 1 EOOD
as 3-C Bulgaria

and

CONSOLIDATED CONTINENTAL COMMERCE LIMITED
as 3-C Mauritius

relating to a Power Purchase Agreement dated 13th June, 2001

CONTENTS

Clause **Page**

1. Definitions and Incorporation of Provisions 3
2. Amendment of the PPA 4
3. Confirmation of Guarantee 4
4. Representations, Warranties and Covenants 4

Signatories 5

Appendix

1. Amendments to PPA 6

THIS THIRD AMENDMENT AGREEMENT is made on , 2005

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria (**Purchaser**), herein represented by Mr Lubomir Velkov and Mr Mardik Papazyan who are duly authorised to represent it in this Third Amendment Agreement;

(2) **AES-3C MARITZA IZTOK 1 EOOD**, a private limited company duly organised and existing under the laws of the republic of Bulgaria (**3-C Bulgaria**), herein represented by Mr Thomas Wray who is duly authorised to represent it in this Third Amendment Agreement; and

(3) **CONSOLIDATED CONTINENTAL COMMERCE LIMITED**, a private limited company duly organised and existing under the laws of Mauritius (**3-C Mauritius**), herein represented by Mr Tom Wray who is duly authorised to represent it in this Third Amendment Agreement.

WHEREAS:

(A) The Purchaser and 3-C Mauritius entered into a power purchase agreement (the **PPA**) on 13th June, 2001 for the implementation of the Project.

(B) 3-C Bulgaria became a party to the PPA by execution of an Accession Undertaking dated 13th June, 2001 pursuant to Clause 14.5 of the PPA.

(C) The Parties entered into an amendment agreement (the **First Amendment Agreement**) dated as of 20th September, 2002 in order to amend the PPA.

(D) The Parties entered into a second amendment agreement (the **Second Amendment Agreement**) dated as of 21st February, 2005 .

(E) The Parties have agreed to further amend the PPA subject to and on the terms of this Third Amendment Agreement, which shall for the avoidance of doubt supersede the letter dated 28th February, 2005 from 3-C Bulgaria to the Purchaser.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PROVISIONS

1.1 Incorporation of Certain Definitions: Unless the context otherwise requires, capitalised terms used in this Third Amendment Agreement, including the recitals above, shall have the respective meanings given to them in the PPA, the First Amendment Agreement and the Second Amendment Agreement.

1.2 Incorporation of Certain PPA Provisions: Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Third Amendment Agreement as if set out in full in this Third

Amendment Agreement and as if references therein to the PPA were references to this Third Amendment Agreement.

2. AMENDMENT OF THE PPA

The PPA shall be amended with effect from the date of this Third Amendment Agreement in the manner set out in Appendix 1.

3. CONFIRMATION OF GUARANTEE

3-C Mauritius confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA remains in full force and effect notwithstanding the amendment of the PPA by this Third Amendment Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1 The Purchaser and 3-C Mauritius

The Purchaser and 3-C Mauritius repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Third Amendment Agreement.

4.2 3-C Bulgaria

3-C Bulgaria repeats the representations and warranties contained in paragraph 2 of the Accession Undertaking dated 13th June, 2001 between the Purchaser, 3-C Mauritius and 3-C Bulgaria, in each case with reference to the facts and circumstances existing on the date of this Third Amendment Agreement.

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Mauritius has caused this Third Amendment Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

SIGNATORIES

SIGNED by)1.
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)2.

SIGNED by)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK 1 EOOD)

SIGNED by)
duly authorised for and on behalf of)
CONSOLIDATED CONTINENTAL COMMERCE LIMITED)

APPENDIX 1

AMENDMENTS TO PPA

Clause 1.1

The definition of **Assignment of Receivables** is deleted and replaced with:

"**"Pledge":** the pledge agreement between the Purchaser and 3-C Bulgaria pursuant to which the Purchaser creates and grants to 3-C Bulgaria a security interest over an account of the Purchaser and certain power sales agreements in order to provide security for (i) one Month's Capacity Payments (based on Contracted Capacity) (ii) one Month's Energy Payments (based on Net Electrical Energy Output at Full Load) as they fall due, and (iii) any tax on interest due in respect of the payment obligations referred to in paragraphs (i) and (ii), to be executed in the form to be agreed between the Parties in accordance with Clause 10.8;".

The definition of **Government Support Letter** is deleted.

The definition of **Project Support Letter** is deleted and replaced with:

"**"Project Support Letter":** the letter issued by the Government on [22 June 2005] for the benefit of 3-C Bulgaria and the Finance Parties;".

Universal Amendments

Other than where used in the amendments described by this Third Amendment Agreement, replace:

1. "Assignment of Receivables" wherever it appears with "Pledge".

2. "Government Support Letter" wherever it appears with "Project Support Letter".

Clause 5.1(d)

In Clause 5.1(d) the words "Longstop Date for Financial Close" shall be replaced by "Long Stop Date of Funding".

Clause 14.1 (a) (iii)

Clause 14.1 (a) (iii) shall be deleted.

Clause 15.4(j)

Clause 15.4(j) shall be amended by the addition of the words "or any of its obligations under the Pledge" after the words "Clause 20.1".

Clause 15.5(d)

In Clause 15.5(d) the words "on this Agreement" are replaced by "in this Agreement".

Appendix A

In the definition of $\mathbf{ITRA_n}$, the definition of $\mathbf{AC_n}$ is deleted and replaced with "$\mathbf{ACAC_n}$ is the $ACAC_t$ for the year n as defined below" and the formula

$$\mathbf{ITRA_n = \frac{EBT_n \times (RIT - AIT_n)}{(1 - AIT_n) \times AC_n}}$$

is replaced by

$$ITRA_n = \frac{EBT_n \times (RIT - AIT_n)}{(1 - AIT_n) \times ACAC_n}$$

In the definitions of $\mathbf{I_{Euroi}}$ and $\mathbf{I_{Euro0}}$ the words "the Harmonised Producer Price Index published by the Statistical Office of the European Communities" are replaced by " the Total Producer Price Index for the Euro 25 published by Eurostat, which is the statistical office of the European Union"

The definition of $\mathbf{F_{CR}}$ is deleted and replaced with the following:

"$\mathbf{F_{CR}}$ = [$\mathbf{F_{CR54}}$ + **RC** - Interest Adjustment FC]*(**E**) - Interest Adjustment RF".

In the definition of **FCR54** "€27.83/MWh" is replaced with "is the unescalated capital recovery price for availability of Capacity of the Complex, being €27.83/MWh ".

The definition of "**E**" is deleted and replaced by the following:

"**E** is determined as follows:

i) for the first 126 months after the Effective Date, $(1.0349)^{Yn}$; and

ii) for the period thereafter, $(1.0349)^{6}*(1.015)^{(Yn-6)n}$.

The definition of $\mathbf{AOC_t}$ is deleted and replaced with the following:

"$\mathbf{AOC_t}$ is the number of hours of Non-Scheduled Outages that resulted in System Charges in Calendar Year **t**"

The definition of $\mathbf{AONC_t}$ is deleted and replaced with the following:

"$\mathbf{AONC_t}$ is the number of annual hours of Non-Scheduled Outage that did not result in System Charges in Calendar Year **t**"

Appendix G

Paragraph 5.2 of Appendix G shall be replaced with the following:

"Based on the Declared Net Availability Plan for that Calendar Year referred to in Paragraph 4.2 above, the Purchaser's dispatch centre will provide to 3-C Bulgaria in writing by 30th September prior to the beginning of each Calendar Year, an estimate of the required Net Electrical Energy Output from each Unit for each Month in that Calendar Year provided that the TOTALNEEO (as defined below) shall not be less than 1,578,250 MWh per Unit per Calendar Year or, if the estimate is not in respect of a full Calendar Year (as a result of the occurrence of the Date of Commercial Operation or the Date of Full Commercial Operation or the termination of this Agreement in that Calendar Year), the pro rata amount of 1,578,250 MWh per Unit for the period of that Calendar Year covered by the estimate. Such notification shall be in the form contained in Annex G-2 of this Appendix.

The Minimum Monthly Quantity in respect of each Month shall be calculated in accordance with the following formulae:

(a) in respect of the period between the Date of Commercial Operation and the Date of Full Commercial Operation:

$$MMQ = 1{,}578{,}250 \; x \; \frac{NEEO}{TOTALNEEO}$$

where:

MMQ is the Minimum Monthly Quantity for that month in MWh.

NEEO is the estimate provided by the Purchaser of the required Net Electrical Energy Output from the First Unit for that month in MWh.

TOTALNEEO is the total of the Purchaser's estimates of Net Electrical Energy Output from the first Unit for each month of the relevant Calendar Year (or part thereof) in MWh.

(b) in respect of any period subsequent to the Date of Full Commercial Operation:

$$MMQ = 3{,}156{,}500 \; x \; \frac{NEEO}{TOTALNEEO}$$

where:

MMQ is the Minimum Monthly Quantity for that month in MWh:

NEEO is the estimate provided by the Purchaser for the required Net Electrical Energy Output from both Units for that month in MWh.

TOTALNEEO is the total of the Purchaser's estimates of Net Electrical Energy Output from both Units for each month of the relevant Calendar Year (or part thereof) in MWh.".

EXECUTION COPY

FOURTH AMENDMENT AGREEMENT

DATED 18 SEPTEMBER, 2008

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

as Purchaser

and

AES-3C MARITZA IZTOK 1 EOOD
as 3-C Bulgaria

and

AES BULGARIA HOLDINGS BV
as 3-C Parent

relating to a Power Purchase Agreement dated 13th June, 2001, as amended and novated

CONTENTS

Clause **Page**

1. Definitions and Incorporation of Provisions 1
2. Amendment of the PPA 2
3. Confirmation of Guarantee 2
4. Representations, Warranties and Covenants 2
5. Effective Date 2
6. Continuing Effect 2

Signatories 3

Appendix

1. Amendments to PPA 4

THIS FOURTH AMENDMENT AGREEMENT (this **Fourth Amendment Agreement**) is made on 18 September, 2008

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria (**Purchaser**), herein represented by Mr Lubomir Velkov who is duly authorised to represent it in this Fourth Amendment Agreement;

(2) **AES-3C MARITZA IZTOK 1 EOOD**, a private limited company duly organised and existing under the laws of the Republic of Bulgaria, UIC 123533834 (**3-C Bulgaria**), herein represented by Peter Lithgow who is duly authorised to represent it in this Fourth Amendment Agreement; and

(3) **AES BULGARIA HOLDINGS BV**, a private corporation duly organised and existing under the laws of The Netherlands, registered in the Commercial Register of the Chamber of Commerce, Rotterdam under number 33303855 (**3-C Parent**), herein represented by Peter Lithgow who is fully authorised to represent it in this Agreement.

WHEREAS:

(A) The Purchaser and 3-C Mauritius entered into a power purchase agreement (the **PPA**) on 13th June, 2001 for the implementation of the Project.

(B) 3-C Bulgaria became a party to the PPA by execution of an Accession Undertaking dated 13th June, 2001 pursuant to Clause 14.5 of the PPA.

(C) The Parties entered into an amendment agreement (the **First Amendment Agreement**) dated as of 20th September, 2002 in order to amend the PPA.

(D) The Parties entered into a second amendment agreement (the **Second Amendment Agreement**) dated as of 21st February, 2005, in order to amend the PPA.

(E) The Parties entered into a third amendment agreement (the **Third Amendment Agreement**) dated as of 30th November, 2005, in order to amend the PPA.

(F) The Parties entered into a Novation Agreement (the **Novation Agreement**) dated as of 7th April, 2006 in order to novate the PPA.

(G) The Parties have agreed to further amend the PPA subject to and on the terms of this Fourth Amendment Agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PROVISIONS

1.1 Incorporation of Certain Definitions: Unless the context otherwise requires, capitalised terms used in this Fourth Amendment Agreement, including the recitals above, shall have the respective meanings given to them in the PPA, the First Amendment Agreement, the Second Amendment Agreement, the Third Amendment Agreement and the Novation Agreement.

1.2 Incorporation of Certain PPA Provisions: Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Fourth Amendment Agreement as if set out in full in this Fourth Amendment Agreement and as if references therein to the PPA were references to this Fourth Amendment Agreement.

2. AMENDMENT OF THE PPA

The PPA shall be amended with effect from the Effective Date in the manner set out in Appendix 1.

3. CONFIRMATION OF GUARANTEE

3-C Parent confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA remains in full force and effect notwithstanding the amendment of the PPA by this Fourth Amendment Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Purchaser, 3-C Bulgaria and 3-C Parent repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Fourth Amendment Agreement.

5. EFFECTIVE DATE

This Fourth Amendment Agreement shall not become effective until the date on which both of the following conditions have been satisfied:

(i) the settlement and amending agreements entered into between 3-C Bulgaria and the EPC Contractor dated 20 May 2008 relating to the EPC Agreement (and which the Purchaser approved in writing on 13th May 2008) have come into full force and effect; and

(ii) 3-C Bulgaria has notified the Purchaser that the Financing Parties have consented to 3-C Bulgaria entering into this Fourth Amendment Agreement.

6. CONTINUING EFFECT

Save as amended by this Fourth Amendment Agreement, all other provisions of the PPA, the First Amendment Agreement, the Second Amendment Agreement, the Third Amendment Agreement and the Novation Agreement shall remain unchanged and in full force and effect.

[Rest of this page intentionally left blank. Signatures on next page.]

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Parent has caused this Fourth Amendment Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

SIGNATORIES

SIGNED by)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK 1 EOOD)

SIGNED by)
duly authorised for and on behalf of)
AES BULGARIA HOLDINGS BV)

APPENDIX 1

AMENDMENTS TO PPA

Clause 1.1

The following definitions in Clause 1.1 are deleted in their entirety and the following definitions are inserted in lieu thereof:

"Required Date of Commercial Operation": that date which is forty-five (45) Months after the Construction Start Date or the Long Stop Construction Start Date (whichever is the earlier);

"Required Date of Full Commercial Operation": that date which is fifty-one (51) Months after the Construction Start Date or the Long Stop Construction Start Date (whichever is the earlier);

"Long Stop Date of Commercial Operation": that date which is fifty-four (54) Months after the Construction Start Date plus such additional period as is specified in Clause 6.5;

"Long Stop Date of Full Commercial Operation": that date which is fifty-four (54) Months after the Construction Start Date plus such additional period as is specified in Clause 6.5;

Clause 4.2(a)

Clause 4.2(a) is deleted in its entirety and the following is inserted in lieu thereof:

" (a) The Purchaser, subject to Clause 3.4(b) in respect of costs prior to the Date of Full Commercial Operation but otherwise at its own costs and expense, shall cause the Interconnection Facilities to be constructed and made ready to receive the Net Electrical Output in accordance with the provisions of Appendix L by not later than 31 October 2008 (inclusive). For this purpose, the Purchaser undertakes to co-ordinate its actions and co-operate with 3-C Bulgaria, its contractors and the Independent Engineer. "

Part 2 (Project Schedule) to Appendix D (Project Schedule)

The following table is deleted in its entirety and the following table is inserted in lieu thereof:

Key Date	Estimated Date
Underwriting mandate entered into with commercial lenders	31st December, 2004
Detailed term sheet agreed with the Underwriters	30th April, 2005
Financial Close	7th December, 2005
Effective Date	9th May 2006
Final Notice to Proceed under the EPC Agreement(s)	8th August 2006
Unit 1	
First Commissioning Date	By 8th February, 2010
Date of Commercial Operation	By 8th May, 2010
Unit 2	
Second Commissioning Date	By 8th August, 2010
Date of Full Commercial Operation	By 8th November, 2010
Required Date of Commercial Operation	8th May, 2010
Required Date of Full Commercial Operation	8th November, 2010

Key Date	Estimated Date
Long Stop Date of Commercial Operation	8th February, 2011
Long Stop Date of Full Commercial Operation	8th February, 2011

EXECUTION COPY

FIFTH AMENDMENT AGREEMENT

DATED 19 SEPTEMBER, 2008

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

as Purchaser

and

AES-3C MARITZA IZTOK 1 EOOD
as 3-C Bulgaria

and

AES BULGARIA HOLDINGS BV
as 3-C Parent

relating to a Power Purchase Agreement dated 13th June, 2001, as amended and novated

CONTENTS

Clause

		Page
1.	Definitions and Incorporation of Provisions	1
2.	Amendment of the PPA	2
3.	Confirmation of Guarantee	2
4.	Representations, Warranties and Covenants	2
5.	Effective Date	2
6.	Continuing Effect	2

Signatories 3

Appendix

1. Amendments to PPA 4

THIS FIFTH AMENDMENT AGREEMENT (this **Fifth Amendment Agreement**) is made on 19 September, 2008

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria (**Purchaser**), herein represented by Mr Lubomir Velkov who is duly authorised to represent it in this Fifth Amendment Agreement;

(2) **AES-3C MARITZA IZTOK 1 EOOD**, a private limited company duly organised and existing under the laws of the Republic of Bulgaria, UIC 123533834 (**3-C Bulgaria**), herein represented by Peter Lithgow who is duly authorised to represent it in this Fifth Amendment Agreement; and

(3) **AES BULGARIA HOLDINGS BV**, a private corporation duly organised and existing under the laws of The Netherlands, registered in the Commercial Register of the Chamber of Commerce, Rotterdam under number 33303855 (**3-C Parent**), herein represented by Peter Lithgow who is fully authorised to represent it in this Agreement.

WHEREAS:

(A) The Purchaser and 3-C Mauritius entered into a power purchase agreement (the **PPA**) on 13th June, 2001 for the implementation of the Project.

(B) 3-C Bulgaria became a party to the PPA by execution of an Accession Undertaking dated 13th June, 2001 pursuant to Clause 14.5 of the PPA.

(C) The Parties entered into an amendment agreement (the **First Amendment Agreement**) dated as of 20th September, 2002 in order to amend the PPA.

(D) The Parties entered into a second amendment agreement (the **Second Amendment Agreement**) dated as of 21st February, 2005, in order to amend the PPA.

(E) The Parties entered into a third amendment agreement (the **Third Amendment Agreement**) dated as of 30th November, 2005, in order to amend the PPA.

(F) The Parties entered into a fourth amendment agreement (the **Fourth Amendment Agreement**) dated as of 18th September, 2008, in order to amend the PPA.

(G) The Parties entered into a Novation Agreement (the **Novation Agreement**) dated as of 7th April, 2006 in order to novate the PPA

(H) The Parties have agreed to further amend the PPA subject to and on the terms of this Fifth Amendment Agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PROVISIONS

1.1 Incorporation of Certain Definitions: Unless the context otherwise requires, capitalised terms used in this Fifth Amendment Agreement, including the recitals above, shall have the

respective meanings given to them in the PPA, the First Amendment Agreement, the Second Amendment Agreement, the Third Amendment Agreement, the Fourth Amendment Agreement and the Novation Agreement.

1.2 Incorporation of Certain PPA Provisions: Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Fifth Amendment Agreement as if set out in full in this Fifth Amendment Agreement and as if references therein to the PPA were references to this Fifth Amendment Agreement.

2. AMENDMENT OF THE PPA

The PPA shall be amended with effect from the Effective Date in the manner set out in Appendix 1.

3. CONFIRMATION OF GUARANTEE

3-C Parent confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA remains in full force and effect notwithstanding the amendment of the PPA by this Fifth Amendment Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Purchaser, 3-C Bulgaria and 3-C Parent repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Fifth Amendment Agreement.

5. EFFECTIVE DATE

This Fifth Amendment Agreement shall become effective on the date on which 3-C Bulgaria has notified the Purchaser that the Financing Parties have consented, in accordance with the Financing Agreements, to 3-C Bulgaria and the Purchaser entering into this Fifth Amendment Agreement. The Producer undertakes to use all reasonable efforts to obtain such Finance Parties' consent including (without limitation) to submit this Fifth Amendment Agreement for Finance Parties' consent on the day following the day on which the Fourth Amendment Agreement has become effective in accordance with Section 5 (*Effective Date*) thereof.

6. CONTINUING EFFECT

Save as amended by this Fifth Amendment Agreement, all other provisions of the PPA, the First Amendment Agreement, the Second Amendment Agreement, the Third Amendment Agreement, the Fourth Amendment Agreement and the Novation Agreement shall remain unchanged and in full force and effect.

[Rest of this page intentionally left blank. Signatures on next page.]

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Parent has caused this Fifth Amendment Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

SIGNATORIES

SIGNED by)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK 1 EOOD)

SIGNED by)
duly authorised for and on behalf of)
AES BULGARIA HOLDINGS BV)

APPENDIX 1

AMENDMENTS TO PPA

Clause 4.2(a)

Clause 4.2(a) is deleted in its entirety and the following is inserted in lieu thereof:

" (a) The Purchaser, subject to Clause 3.4(b) in respect of costs prior to the Date of Full Commercial Operation but otherwise at its own costs and expense, shall cause the Interconnection Facilities to be constructed and made ready to receive the Net Electrical Output in accordance with the provisions of Appendix L and subject to, and in accordance with, the Interconnection Agreement (as amended from time to time). For this purpose, the Purchaser undertakes to co-ordinate its actions and co-operate with 3-C Bulgaria, its contractors and the Independent Engineer. ".

EXECUTION COPY

SIXTH AMENDMENT AGREEMENT

DATED [19.02, 2010

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

as Purchaser

and

AES-3C MARITZA IZTOK 1 EOOD
as 3-C Bulgaria

and

AES BULGARIA HOLDINGS BV
as 3-C Parent

relating to a Power Purchase Agreement dated 13th June, 2001, as amended and novated

CONTENTS

Clause **Page**

1. Definitions and Incorporation of Provisions 2
2. Amendment of the PPA 2
3. Confirmation of Guarantee 2
4. Representations, Warranties and Covenants 2
5. Effective Date 2
6. Continuing Effect 2
7. Acknowledgement 2

Appendix

1. Amendments to PPA 4

THIS SIXTH AMENDMENT AGREEMENT (this **Sixth Amendment Agreement**) is made on [19.02.], 2010

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, a state-owned enterprise duly organised and existing under the laws of the Republic of Bulgaria, UIC 000649348 (**Purchaser**), herein represented by Mr Krasimir Parvanov who is duly authorised to represent it in this Sixth Amendment Agreement;

(2) **AES-3C MARITZA IZTOK 1 EOOD**, a private limited company duly organised and existing under the laws of the Republic of Bulgaria, UIC 123533834 (**3-C Bulgaria**), herein represented by Peter Lithgow who is duly authorised to represent it in this Sixth Amendment Agreement; and

(3) **AES BULGARIA HOLDINGS BV**, a private corporation duly organised and existing under the laws of The Netherlands, registered in the Commercial Register of the Chamber of Commerce, Rotterdam under number 33303855 (**3-C Parent**), herein represented by Peter Lithgow who is fully authorised to represent it in this Agreement.

WHEREAS:

(A) The Purchaser and 3-C Mauritius entered into a power purchase agreement (the **PPA**) on 13th June, 2001 for the implementation of the Project.

(B) 3-C Bulgaria became a party to the PPA by execution of an Accession Undertaking dated 13th June, 2001 pursuant to Clause 14.5 of the PPA.

(C) The Parties entered into an amendment agreement (the **First Amendment Agreement**) dated as of 20th September, 2002 in order to amend the PPA.

(D) The Parties entered into a second amendment agreement (the **Second Amendment Agreement**) dated as of 21st February, 2005, in order to amend the PPA.

(E) The Parties entered into a third amendment agreement (the **Third Amendment Agreement**) dated as of 30th November, 2005, in order to amend the PPA.

(F) The Parties entered into a fourth amendment agreement (the **Fourth Amendment Agreement**) dated as of 18th September, 2008, in order to amend the PPA.

(G) The Parties entered into a fifth amendment agreement (the **Fifth Amendment Agreement**) dated as of 19th September, 2008, in order to amend the PPA.

(H) The Parties entered into a Novation Agreement (the **Novation Agreement**) dated as of 7th April, 2006 in order to novate the PPA

(I) The Parties have agreed to further amend the PPA subject to and on the terms of this Sixth Amendment Agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PROVISIONS

1.1 Incorporation of Certain Definitions: Unless the context otherwise requires, capitalised terms used in this Sixth Amendment Agreement, including the recitals above, shall have the respective meanings given to them in the PPA, the First Amendment Agreement, the Second Amendment Agreement, the Third Amendment Agreement, the Fourth Amendment Agreement, the Fifth Amendment Agreement, Appendix 1 to this Sixth Amendment Agreement and the Novation Agreement.

1.2 Incorporation of Certain PPA Provisions: Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Sixth Amendment Agreement as if set out in full in this Sixth Amendment Agreement and as if references therein to the PPA were references to this Sixth Amendment Agreement.

2. AMENDMENT OF THE PPA

The PPA shall be amended with effect from the Effective Date in the manner set out in Appendix 1.

3. CONFIRMATION OF GUARANTEE

3-C Parent confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA remains in full force and effect notwithstanding the amendment of the PPA by this Sixth Amendment Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Purchaser, 3-C Bulgaria and 3-C Parent repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Sixth Amendment Agreement.

5. EFFECTIVE DATE

This Sixth Amendment Agreement shall become effective on the date on which 3-C Bulgaria has notified the Purchaser that the Financing Parties have consented (in accordance with the Financing Agreements) to 3-C Bulgaria and the Purchaser entering into this Sixth Amendment Agreement.

6. CONTINUING EFFECT

Save as amended by this Sixth Amendment Agreement, all other provisions of the PPA, the First Amendment Agreement, the Second Amendment Agreement, the Third Amendment Agreement, the Fourth Amendment Agreement, the Fifth Amendment Agreement and the Novation Agreement shall remain unchanged and in full force and effect.

7. ACKNOWLEDGEMENT

The Purchaser hereby acknowledges that:

(i) it is obliged to indemnify 3-C Bulgaria pursuant to Clause 12.1(c) and 12.1(c)(v)of the PPA including, without limitation, for any damages, losses, costs or liabilities incurred or suffered by 3-C Bulgaria as a result of the Purchaser's failure to construct and make ready the Interconnection Facilities between 8 March 2009 and the Day on which the Interconnection Facilities are actually constructed and made ready, the

amendments set out in Appendix 1 to this Sixth Amendment Agreement notwithstanding;

(ii) the Term shall be extended, in accordance with Articles 6.5(a) and (b), by the number of Days 3-C Bulgaria was delayed in achieving the Date of Commercial Operation and the Full Date of Commercial Operation by the Purchaser's failure referred to in paragraph (i) above;

(iii) any outage as a result of any Unit being disconnected from the Grid System during the period from the Interim 400kV Interconnection Facilities no longer being used and the Interconnection Facilities being used shall result in any such Unit being in Reserve and shall not constitute a Scheduled Outage or a Non-Scheduled Outage during such period; and

(iv) any amount that is paid by 3-C Bulgaria in relation to the construction of the Interim 400kV Interconnection Facilities and the interim 110/20 kV interconnection facilities currently in operation on the Site shall be set off by 3-C Bulgaria in accordance with Clause 8.1 of the Interconnection Agreement (as amended by the Second Amendment Agreement) against sums owed to the Purchaser in relation to the supply of the Interconnection Facilities.

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Parent has caused this Sixth Amendment Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

SIGNATORIES

SIGNED by)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

SIGNED by)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK I EOOD)

SIGNED by)
duly authorised for and on behalf of)
AES BULGARIA HOLDINGS BV)

APPENDIX 1

AMENDMENTS TO PPA

The definition of **Grid System** is amended by the addition of the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities".

The definition of **Interconnection Agreement** is amended by the addition of the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities".

The definition of **Required Date of Commercial Operation** is amended by the deletion of the text "forty-five (45) Months" and the insertion of the text "fifty-one (51) Months" in lieu thereof.

The definition of **Required Date of Full Commercial Operation** is amended by the deletion of the text "fifty-one (51) Months" and the insertion of the text "fifty-seven (57) Months" in lieu thereof.

The definition of **Long Stop Date of Commercial Operation** is amended by the deletion of the text "fifty-four (54) Months" and the insertion of the text "sixty (60) Months" in lieu thereof.

The definition of **Long Stop Date of Full Commercial Operation** is amended by the deletion of the text "fifty-four (54) Months" and the insertion of the text "sixty (60) Months" in lieu thereof.

After the definition of "**Interest on Equity**" a new definition is inserted to read as follows:

""**Interim 400 kV Interconnection Facilities":** the facilities more fully described in Annex 14 to the Interconnection Agreement which are to be engineered, designed, procured, constructed, installed, licensed, permitted, tested, commissioned, owned and maintained by the Purchaser (or by 3-C Bulgaria to the extent it has so undertaken in writing) to provide, on an interim basis pending completion of the Interconnection Facilities, for the transfer of not less than 840MW of Net Electrical Energy Output from the Delivery Point to the rest of the Grid System and auxiliary electricity from the Grid System to the Complex, including all relay-protection equipment and transmission lines as more particularly described in Appendix E;".

Clause 4.2(a) is deleted in its entirety and the following is inserted in lieu thereof:

" (a) The Purchaser, subject to Clause 3.4(b) in respect of costs prior to the Date of Full Commercial Operation but otherwise at its own costs and expense, shall design and cause the Interim 400 kV Interconnection Facilities and the Interconnection Facilities to be constructed and made ready to receive the Net Electrical Energy Output in accordance with the provisions of Appendix L and subject to, and in accordance with, the Interconnection Agreement (as amended from time to time). For this purpose, the Purchaser undertakes to co-ordinate its actions and co-operate with 3-C Bulgaria, its contractors and the Independent Engineer.".

Insert, in **Clause 4.2(b)**, the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities".

The first paragraph of **Clause 5.2(a)** is deleted in its entirety and the following is inserted in lieu thereof:

"(a) If the Date of Commercial Operation (or deemed Commercial Operation in accordance with Clause 6.5(a)(i)) has not been achieved by 3-C Bulgaria by the Required Date of Commercial Operation, then for each Day occurring between (but not including) the Required Date of Commercial Operation and the first to occur of:"

The first paragraph of **Clause 5.2(b)** is deleted in its entirety and the following is inserted in lieu thereof:

"(a) If the Date of Full Commercial Operation (or deemed Full Commercial Operation in accordance with Clause 6.5(b)(i)) has not been achieved by 3-C Bulgaria by the Required Date of Full Commercial Operation, then for each Day occurring between (but not including) the Required Date of Full Commercial Operation and the first to occur of:"

Clause 6.5(a)(i) is deleted in its entirety and the following is inserted in lieu thereof:

"(i) the Date of Commercial Operation shall be deemed to have been achieved either on such Day (on or before the Long Stop Date of Commercial Operation) as 3-C Bulgaria is able to demonstrate, to the reasonable satisfaction of the Independent Engineer, that it would have been able to achieve the Date of Commercial Operation if the relevant Purchaser Related Event had not occurred or (where the Purchaser has failed to provide the Interim 400 kV Interconnection Facilities to Unit 1 by 31 March 2010) on the Day which is 1 April 2010, and the Purchaser shall be obligated to make payments (until the Date of Commercial Operation is actually achieved) determined:

(1) in accordance with Clause 13.8(b), in the case of a Purchaser Related Event which is an Unusual Event; and

(2) in the case of any other Purchaser Related Event (including where the Interim 400 kV Interconnection Facilities to Unit 1 are not made available on the Day specified above), in accordance with Appendix A with Capacity Payments calculated using an Available Capacity equal to the Contracted Capacity of Unit 1 and Energy Payments determined in accordance with Paragraph 2 of Appendix A; and".

Clause 6.5(b)(i) is deleted in its entirety and the following is inserted in lieu thereof:

"(i) the Date of Full Commercial Operation shall be deemed to have been achieved either on such Day (on or before the Long Stop Date of Full Commercial Operation) as 3-C Bulgaria is able to demonstrate, to the reasonable satisfaction of the Independent Engineer, that it would have been able to achieve the Date of Full Commercial Operation if the relevant Purchaser Related Event had not occurred or (where the Purchaser has failed to provide the Interim 400 kV Interconnection Facilities to Unit 2 by 30 June 2010) on the Day which is 1 July 2010, and the Purchaser shall be obligated to make payments (until the Date of Full Commercial Operation is actually achieved) determined:

(1) in accordance with Clause 13.8(b), in the case of a Purchaser Related Event which is an Unusual Event; and

(2) in the case of any other Purchaser Related Event (including where the Interim 400 kV Interconnection Facilities to Unit 2 are not made available on the Day specified above), in accordance with Appendix A with Capacity Payments calculated using an Available Capacity equal to the Contracted Capacity of Unit 2 and Energy Payments determined in accordance with Paragraph 2 of Appendix A; and".

Clause 10.1(a) is deleted in its entirety and the following is inserted in lieu thereof:

"(a) As soon as 3-C Bulgaria becomes entitled to payment from the Purchaser (whether before or after the Commissioning Start Date), 3-C Bulgaria shall deliver an invoice ("**Invoice**") to the Purchaser twice a Month, the first Invoice being issued on or after the sixteenth (16th) Day of each Month in respect of the first fifteen (15) Days of that Month and the second Invoice being issued after the end of the Month in respect of the remainder of that Month (each an "**Invoicing Period**").".

Insert, in **Clause 12.1(a)(iii)**, the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities".

Insert, in **Clause 12.1(e)**, the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities".

After **Clause 13.5(g)** insert a new **Clause 13.5(h)** (making consequential punctuation changes to Clause 13.5(g)) as follows:

"(h) any failure by the Purchaser to provide the Interim 400 kV Interconnection Facilities (or any part thereof) or the Interconnection Facilities on the required dates.".

In **Article 13.8(a) (payments During or Resulting from Unusual Events:)** the words "under any Project Agreement" are deleted and the following words are inserted in lieu thereof "under, or in connection with performing their obligations under, any Project Agreement".

Insert, in **Clause 17.3(a)**, the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities".

Insert, in **paragraph 5.7(b) of Appendix G** the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities".

Insert, in **paragraphs 1.1 and 1.2 of Appendix L** the words "the Interim 400 kV Interconnection Facilities and" before the words "the Interconnection Facilities" wherever they appear.

The opening paragraph of **paragraph 5 of Appendix L** is deleted in its entirety and the following is inserted in lieu thereof:

"3-C Bulgaria undertakes to prepare a commissioning programme in respect of the Interim 400 kV Interconnection Facilities by no later than thirty (30) Days prior to the Start-Up tests for Unit 1 referred to in Paragraph 2 of Appendix F. The Purchaser will provide all necessary assistance to enable 3-C Bulgaria to prepare such commissioning programme which shall include the following:"

Insert, in **Appendix R** the words "as depicted in the Diagram titled "400kV High Voltage Connection Arrangement"" after the words "400kV High Voltage Connection Arrangement.

Insert, in **Appendix R** the words "as depicted in the Diagram titled "Plan Layout"" after the words "Plan Layout".

НАЦИОНАЛНА ЕЛЕКТРИЧЕСКА КОМПАНИЯ ЕАД
1040 София, ул. "Веслец" No 5, тел. (02) 9263 636, факс: (02) 987 25 50, www.nek.bg

Изток I" ЕООД
Вх. № МТ-ИЕК-290
Дата 30.11.12г.

НЕК - ЕАД
Изх. № 26-173-218
30.11.2012 год.
СОФИЯ

ДО
Г-Н ПИТЪР ЛИТГОУ,
УПРАВИТЕЛ
ЕЙ И ЕС – 3С МАРИЦА ИЗТОК 1 ЕООД
СОФИЯ 1000, УЛ. „ЛЮБЕН КАРАВЕЛОВ" №72

Относно: Седмо изменение на Споразумение за изкупуване на енергия, сключено между „Национална Електрическа Компания" ЕАД и „Ей И Ес 3-С Марица Изток 1" ЕООД

Уважаеми г-н Литгоу,

В изпълнение на решение по т.I.3 от протокол №15/04.05.2012г. на Съвета на директорите на НЕК ЕАД, решение по протокол №34-2012/18.06.2012г. на Съвета на директорите на „БЕХ"ЕАД и Решение № Р-174 от 10.09.2012 год. на Държавната Комисия за Енергийно и Водно Регулиране, приложено към настоящото ви предоставям един екземпляр от Седмо споразумение за изменение на Споразумение за изкупуване на енергия от 2001 год., подписан от наша страна на 28.11.2012 год.

Приложение: съгласно текста

С уважение:

Крум Анастасов
Изпълнителен директор
„Национална електрическа компания" ЕАД

НАЦИОНАЛНА ЕЛЕКТРИЧЕСКА КОМПАНИЯ ЦЕНТРАЛНО УПРАВЛЕНИЕ СОФИЯ 2 ЕАД

EXECUTION COPY

SEVENTH AMENDMENT AGREEMENT

DATED 19 SEPTEMBER, 2012

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

as Purchaser

and

AES-3C MARITZA IZTOK 1 EOOD
as 3-C Bulgaria

and

AES BULGARIA HOLDINGS BV
as 3-C Parent

relating to a Power Purchase Agreement dated 13th June, 2001, as amended and novated

CONTENTS

Clause **Page**

1. Definitions and Incorporation of Provisions 2
2. Amendment of the PPA 3
3. Confirmation of Guarantee 3
4. Representations, Warranties and Covenants 3
5. Effective Date 3
6. Continuing Effect 3
7. Acknowledgement 4

Signatures of the Parties

Appendix 1 5

1. Amendments to PPA 5

THIS SEVENTH AMENDMENT AGREEMENT (this **Seventh Amendment Agreement**) is made on 19 September, 2012

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, duly organised and existing under the laws of the Republic of Bulgaria, UIC 000649348 (**Purchaser**), herein represented by Mr Krum Anastasov, Executive Director, who is duly authorised to represent it in this Seventh Amendment Agreement;

(2) **AES-3C MARITZA IZTOK I EOOD**, a private limited company duly organised and existing under the laws of the Republic of Bulgaria, UIC 123533834 (**3-C Bulgaria**), herein represented by Mr Peter Lithgow, Managing Director, who is duly authorised to represent it in this Seventh Amendment Agreement; and

(3) **AES BULGARIA HOLDINGS BV**, a private corporation duly organised and existing under the laws of The Netherlands, registered in the Commercial Register of the Chamber of Commerce, Rotterdam under number 33303855 (**3-C Parent**), herein represented by Peter Lithgow, proxy, who is fully authorised to represent it in this Agreement.

WHEREAS:

(A) The Purchaser and 3-C Bulgaria entered into a power purchase agreement on 13th June, 2001 for the implementation of the Project as subsequently amended, supplemented and novated to date (the **PPA**).

(B) In connection with the greenhouse gas emissions trading mechanism pursuant to Directive 2003/87/EC and by virtue of the Environment Protection Act, which have not been effective at the time of entry into the PPA, TPP AES Maritza East 1 is an installation, which has been granted a permit for greenhouse gas emissions, and which has been obliged to present annually by 30 April at the National Register for the Reporting of Issuance, Possession, Delivery, Transfer and Cancellation of Greenhouse Gas Emission Quotas such number of quotas as its verified emissions of CO_2 for the foregoing year.

(C) The Bulgarian government has adopted and coordinated with the European Commission a National Plan for Allocation of Greenhouse Emissions Trading Quotas for the period 2008-2012 which provides that 3-C Bulgaria has received a certain number of free quotas.

(D) In case of a shortfall of free emission quotas for 3-C Bulgaria during the term of the National Plan for Allocation of Greenhouse Emissions Trading Quotas for the period 2008-2012 and during the subsequent terms when no free quotas shall be distributed among the operators, or only part of these quotas shall be distributed free of charge, said shortfall must be covered by means of purchase of emission permits and other instruments of the open market, otherwise penalty shall be paid to the amount determined in accordance with applicable law.

(E) The amendments to the Environment Protection Act (State Gazette issue No. 77 of 27/09/2005) which implement Directive 2003/87/EC of the European Parliament and Council establishing a greenhouse gas emissions quota trading scheme within the Community and an associated permitting requirement for a power plant's operator, constitute a Change in Law and any Costs arising under such Change in Law shall be reimbursed by the Purchaser in accordance with Clause 10.7 (Protection of the Initial Investment) of the PPA. Pursuant to Clause 10.7 of the PPA, the Parties have agreed that the costs for the purchase of shortfall quotas shall be covered by way of transfer of such cost into the tariff at which 3-C Bulgaria

sells electrical power to the Purchaser, such that 3-C Bulgaria is placed in the same financial position under the PPA, in which it would have been had such Change in Law not occurred.

(F) The Parties have agreed to further amend the PPA subject to and on the terms of this Seventh Amendment Agreement in order to regulate the mechanism for the Costs reimbursement specified in Recital (E) of the Preamble, and to make certain clarifications to avoid any doubt with respect of the costs, which shall be transferred into the tariff and shall be applied to the additional agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PROVISIONS

1.1 Incorporation of Certain Definitions: Unless the context otherwise requires, capitalised terms used in this Seventh Amendment Agreement, including the recitals above, shall have the respective meanings given to them in the PPA.

1.2 Incorporation of Certain PPA Provisions: Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Seventh Amendment Agreement as if set out in full in this Seventh Amendment Agreement and as if references therein to the PPA were references to this Seventh Amendment Agreement.

1.3 Subject to Clause 1.1 above and unless the context otherwise requires, any terms used in this Seventh Amendment Agreement, including the recitals above, shall have the respective meanings given to them in Directives 2003/87/EC and 2009/29/EC.

2. AMENDMENT OF THE PPA

The PPA shall be amended with effect from the Effective Date in the manner set out in Appendix 1.

3. CONFIRMATION OF GUARANTEE

3-C Parent confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA remains in full force and effect notwithstanding the amendment of the PPA by this Seventh Amendment Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Purchaser, 3-C Bulgaria and 3-C Parent repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Seventh Amendment Agreement.

5. EFFECTIVE DATE

This Seventh Amendment Agreement shall become effective on the date on which (i) the Regulator has approved the Seventh Amendment Agreement and (ii) 3-C Bulgaria has notified the Purchaser that the Financing Parties have consented (in accordance with the Financing Agreements) to 3-C Bulgaria and the Purchaser entering into this Seventh Amendment Agreement.

6. CONTINUING EFFECT

Save as amended by this Seventh Amendment Agreement, all other provisions of the PPA shall remain unchanged and in full force and effect.

7. ACKNOWLEDGEMENT AND APPOINTMENT

7.1 Each of the Purchaser and 3-C Bulgaria hereby acknowledges and agrees that until this Seventh Amendment Agreement has become effective 3-C Bulgaria fully reserves its rights under Clause 10.7 of the PPA in relation to any Costs (save for any fines and/or pecuniary sanctions imposed) incurred by 3-C Bulgaria on account of its acquisition of greenhouse gas emission quotas in accordance with applicable Legal Requirements to the extent such Costs were unavoidably incurred in connection with compliance obligations resulting from a Change in Law; and

7.2 The Purchaser shall not be liable to 3-C Bulgaria for any Costs incurred by 3-C Bulgaria on account of any penalties or fines for failure by 3-C Bulgaria to deliver to the administrator of the National Register for the Reporting of Issuance, Possession, Delivery, Transfer and Cancellation of Greenhouse Gas Emission Quotas the requisite amount of greenhouse gas emission quotas in accordance with Article 131з(1) of the Environment Protection Act 2002.

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Parent has caused this Seventh Amendment Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

НАЦИОНАЛНА ЕЛЕКТРИ... ЦЕНТРАЛНО УПРАВЛЕНИЕ СОФИЯ 1 ЕАД

SIGNATORIES

SIGNED by)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

28.11.12 г.

SIGNED by)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK I EOOD)

SIGNED by)
duly authorised for and on behalf of)
AES BULGARIA HOLDINGS BV)

APPENDIX 1

AMENDMENTS TO PPA

1. The wording of Clause 10.1(b)(7) (Billing) of the PPA shall be changed by adding a new component $\mathbf{EP_E}$ at the end of the phrase as per the following:

   "the calculation of each of $\mathbf{EP_F}$, $\mathbf{EP_V}$, $\mathbf{EP_W}$, $\mathbf{EP_L}$, $\mathbf{EP_O}$ and $\mathbf{EP_E}$ (referred to in Appendix A, Paragraph 2);".

2. The formula of the Energy Payment, **EP**, in Lev, in Paragraph 2 (Energy Payment Calculation) of Appendix A (Tariff, Ancillary Services Payments, System Charges and Reimbursements) to the PPA shall be changed by adding a new component $\mathbf{EP_E}$ at the end of the formula as per the following:

   "$\mathbf{EP = EP_F + EP_O + EP_W + EP_L + EP_V + EP_E}$",

   and at the end of Paragraph 2, the following text is inserted:

   "$\mathbf{EP_E}$ is, in respect of Invoicing Periods ending on or subsequent to the Commissioning Start Date, the amount (in Lev) determined according to the formula $\{\mathbf{EP_E = P_E \times Q_E}\}$ where:

   $\mathbf{P_E}$ is the cost of acquisition of CO_2 allowances for the relevant Invoicing Period;

   $\mathbf{Q_E}$ is the quantity of CO_2 emissions emitted during the relevant Invoicing Period.

   For the purpose of determining $\mathbf{P_E}$:

   (a) The cost of purchased CO_2 allowances shall include the actual costs of their acquisition, the inherent transaction costs for stock-brokerage plus and any other costs agreed between the Purchaser and 3-C Bulgaria. For the avoidance of doubt, such costs shall not include interest incurred for late payment and penalties for default and other penalty payments due by 3-C Bulgaria under agreements for the acquisition of CO_2 allowances with the respective parties that provide the above-mentioned service;

   (b) By 15 May each Year, 3-C Bulgaria shall issue a final invoice that takes into account any discrepancies as between the quantity of CO_2 emitted (as per the invoices in the previous 12 months) and the actual quantity of CO_2 emitted (as determined by an independent verifier's report) for that 12-month period;

   (c) By 30 November each year, based on Annex G-2 signed by the Purchaser (Calendar Year Ahead Demand Notification for the next calendar year (Paragraph 5.2) of the Annual Commercial Plan), 3-C Bulgaria shall provide to the Purchaser the estimated amounts of necessary allowances (including distributed free ones), calculated for this purpose with the emission factor included in the last accepted report of the independent verifier by 3-C Bulgaria;

   (d) 3-C Bulgaria and the Purchaser agree that the way in which the necessary CO_2 allowances will be sourced will be negotiated between them each year in order to optimize and minimize costs and effectively manage the available free CO_2 allowances in such way to reduce the impact of potential lack of free CO_2 allowances for the Energy Payment. In order to ensure transparency and low cost of acquiring of

any CO_2 allowances, 3-C Bulgaria will select by a competitive process, in coordination with the Purchaser, traders and or dealers with unblemished reputation and experience in leading European exchanges to provide competent service; to provide the required CO_2 allowances at competitive prices with minimal transaction fees and costs;

(e) Without prejudice to paragraph (d) above, any other possible financial instrument (options, caps, swaps, derivatives) that contribute to optimisation and minimisation of costs and or of price volatility will be evaluated by the Purchaser and 3-C Bulgaria and shall be utilized by 3-C Bulgaria upon the Purchaser's consent. The utilisation of the financial instruments shall be realised through a transparent and competitive procedure with the aim of optimising also the additional costs of obtaining the CO_2 allowances;

(f) If the Purchaser and 3-C Bulgaria fail to agree by 31 December of each preceding year the way and the manner in which 3-C Bulgaria shall acquire the CO_2 allowances, 3-C Bulgaria shall have the right to choose the most appropriate economic mechanism for acquiring said allowances. In this case the value of the acquired allowances that will be used to determine the cost of acquisition of the allowances shall not exceed the market price of CO_2 allowances based on the prices of financial instruments (spot or futures) in the corresponding period of one of the main exchanges including (but not limited to) ESX, EEX, BlueNEXT, ICE ECX, plus the inherent transaction costs for stock-brokerage."

EIGHTH AMENDMENT AGREEMENT

DATED 02.01.2014

NATSIONALNA ELEKTRICHESKA KOMPANIA EAD

as Purchaser

and

AES-3C MARITZA IZTOK 1 EOOD
as 3-C Bulgaria

and

AES BULGARIA HOLDINGS BV
as 3-C Parent

relating to a Power Purchase Agreement dated 13th June, 2001, as amended and novated

CONTENTS

Clause **Page**

1. Definitions and Incorporation of Provisions 1
2. Amendment of the PPA 1
3. Confirmation of Guarantee 1
4. Representations, Warranties and Covenants 2
5. Effective Date 2
6. Continuing Effect 2
7. No Consent 2

Signatures of the Parties

Appendix 1 3

1. Amendments to PPA 3

THIS EIGTHTH AMENDMENT AGREEMENT (this **Eighth Amendment Agreement**) is made on 02.01.2014

BETWEEN:

(1) **NATSIONALNA ELEKTRICHESKA KOMPANIA EAD**, duly organised and existing under the laws of the Republic of Bulgaria, UIC 000649348 (**Purchaser**), herein represented by Mr Yordan Zhelev, Executive Director, who is duly authorised to represent it in this Eighth Amendment Agreement;

(2) **AES-3C MARITZA IZTOK I EOOD**, a private limited company duly organised and existing under the laws of the Republic of Bulgaria, UIC 123533834 (**3-C Bulgaria**), herein represented by Ivan Tzankov, Managing Director, who is duly authorised to represent it in this Eighth Amendment Agreement; and

(3) **AES BULGARIA HOLDINGS BV**, a private corporation duly organised and existing under the laws of The Netherlands, registered in the Commercial Register of the Chamber of Commerce, Rotterdam under number 33303855 (**3-C Parent**), herein represented by Ivan Tzankov, proxy, who is fully authorised to represent it in this Agreement.

WHEREAS:

(A) The Purchaser and 3-C Bulgaria entered into a power purchase agreement on 13th June, 2001 for the implementation of the Project as subsequently amended, supplemented and novated to date (the **PPA**).

(B) The Parties have agreed to further amend the PPA subject to and on the terms of this Eighth Amendment Agreement.

NOW, THEREFORE, in view of the matters described in the above recitals and in consideration of the covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF PROVISIONS

1.1 Incorporation of Certain Definitions: Unless the context otherwise requires, capitalised terms used in this Eighth Amendment Agreement, including the recitals above, shall have the respective meanings given to them in the PPA.

1.2 Incorporation of Certain PPA Provisions: Clauses 1.2, 18, 19 and 22 of the PPA are incorporated into this Eighth Amendment Agreement as if set out in full in this Eighth

Amendment Agreement and as if references therein to the PPA were references to this Eighth Amendment Agreement.

2. AMENDMENT OF THE PPA

The PPA shall be amended with effect from the date (the **Effective Date**) on which this Eighth Amendment Agreement becomes effective in accordance with Clause 5 below in the manner set out in Appendix 1.

3. CONFIRMATION OF GUARANTEE

3-C Parent confirms that its guarantee of 3-C Bulgaria's obligations under Clause 21.2 of the PPA remains in full force and effect notwithstanding the amendment of the PPA by this Eighth Amendment Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

The Purchaser, 3-C Bulgaria and 3-C Parent repeat their respective representations and warranties contained in Clause 17.1 of the PPA, in each case with reference to the facts and circumstances existing on the date of this Eighth Amendment Agreement.

5. EFFECTIVE DATE

This Eighth Amendment Agreement shall become effective on the date which is the earlier of (a) the date on which 3-C Bulgaria has notified the Purchaser that the Financing Parties have consented (in accordance with the Financing Agreements) to 3-C Bulgaria and the Purchaser entering into this Eighth Amendment Agreement and (b) the date on which 3-C Bulgaria notifies the Purchaser that this Eighth Amendment Agreement has become effective.

6. CONTINUING EFFECT

Save as amended by this Eighth Amendment Agreement, all other provisions of the PPA shall remain unchanged and in full force and effect.

7. NO CONSENT

Nothing in this Eighth Amendment Agreement shall be construed as a consent by 3-C Bulgaria to the proposed Purchaser Restructuring (as outlined in the presentation attached to

the e-mail dated 18 October 2013 from Delcho Hristozov (the Chief Financial Officer of NEK) to Ivan Tzankov (Chief Financial Officer of 3-C Bulgaria)).

IN WITNESS WHEREOF, each of the Purchaser, 3-C Bulgaria and 3-C Parent has caused this Eighth Amendment Agreement to be executed in multiple originals, each of which shall be deemed to be an original as of the date first above written.

SIGNATORIES

SIGNED by Yordan Zhelev)
duly authorised for and on behalf of)
NATSIONALNA ELEKTRICHESKA KOMPANIA EAD)

НАЦИОНАЛНА ЕЛЕКТРИЧЕСКА КОМПАНИЯ ЕАД
ЦЕНТРАЛНО УПРАВЛЕНИЕ СОФИЯ 1

SIGNED by Ivan Tzankov)
duly authorised for and on behalf of)
AES-3C MARITZA IZTOK I EOOD)

"ЕЙ И ЕС-3С Марица Изток I" ЕООД Гълъбово
Galabovo AES-3C Maritza East I Limited

SIGNED by Ivan Tzankov)
duly authorised for and on behalf of)
AES BULGARIA HOLDINGS BV)

APPENDIX 1

AMENDMENT TO PPA

1. With effect from the Effective Date the PPA shall be amended by replacing the existing language in Clause 15.5(d) with the following language::

   "If the Purchaser Event of Default is the Purchaser Event of Default specified in Clause 15.4(e), this Agreement shall terminate immediately on receipt by the Purchaser of a notice from 3-C Bulgaria terminating this Agreement".