



SHAREHOLDERS' AGREEMENT

RESPECTING GUYANA POWER & LIGHT, INC.

October 1, 1999

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SHAREHOLDERS' AGREEMENT

THIS AGREEMENT made as of the 1st day of October 1999.

AMONG

THE COOPERATIVE REPUBLIC OF GUYANA, a sovereign state organized in such territory, on such principles and according to such rules as are described in the Constitution of the Cooperative Republic of Guyana proclaimed into operation as of October 6th, 1980, said party being represented for the purposes hereof by its government

(hereinafter called the "Government")

OF THE FIRST PART;

- and -

AMERICAS AND CARIBBEAN POWER LIMITED, a British Virgin Islands company

(hereinafter called the "Investor")

OF THE SECOND PART;

- and -

GUYANA POWER & LIGHT, INC. a company incorporated under the laws of the Cooperative Republic of Guyana, having its registered office in the City of Georgetown, in the said Republic of Guyana.

(hereinafter called "GPL" or the "Company")

OF THE THIRD PART.

WHEREAS the Company was incorporated under the Companies Act, No. 29 of 1991 (the "Act") on September 29, 1999;



AND WHEREAS the Articles and the By-laws of the Company, which have been duly made and confirmed in accordance with the Act and which are in force at the date hereof, are annexed to this Agreement as Schedules "A" and "B," respectively;

AND WHEREAS the Shareholders are the owners of all the issued Common Shares and Preference Shares in the capital of the Company as set out in Article 2 hereof;

AND WHEREAS the Parties hereto have entered into this Agreement for the purposes of, *inter alia*, (i) setting forth the manner in which the affairs of the Company shall be conducted; (ii) providing for their respective rights and obligations arising out of or in connection with the operations and affairs of the Company; and (iii) governing the transfer of Shares of the Company;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the terms and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto, the Parties hereto agree with each other as follows:

ARTICLE 1 - INTERPRETATION

1.1 Defined Terms - In this Agreement, unless the context otherwise requires:

- (a) **"Accepted Accounting Principles"** mean the following principles and standards in the order of priority set forth below:
 - (i) United Kingdom Generally Accepted Accounting Principles; and
 - (ii) International Accounting Standards;
- (b) **"Act"** means the Companies Act, No. 29 of 1991;
- (c) **"Affiliates"** has the meaning ascribed thereto in Sections 527, 528, 529 and 535 of the Act;
- (d) **"Agreement"** means this Agreement and all preambles, recitals and schedules hereto, along with any amendments hereto or thereto;
- (e) **"Applicable Law"** means any law, act, ordinance, code, order, rule, resolution or regulation of any governmental authority or agency (federal, national, provincial, municipal, local or other) in Guyana;

- (f) “**Arbitral Tribunal**” has the meaning attributed thereto in Section 14.4 hereof;
- (g) “**Articles**” means the certificate of incorporation and articles of incorporation of the Company, a copy of which are attached as Schedule “A” hereto, as amended and supplemented from time to time;
- (h) “**Associate**” has the meaning ascribed thereto in Section 535 of the Act;
- (i) “**Authorized Capital**” means the authorized capital of the Company as set forth in the Articles;
- (j) “**Available Funds**” has the meaning attributed thereto in Section 15.1(b) hereof;
- (k) “**Board of Directors**” means the board of directors of the Company as constituted from time to time, and “**Director**” or “**Directors**” shall mean a member or members of the Board of Directors, respectively;
- (l) “**Business**” means the business of generating, transmitting, distributing and selling electricity and providing electrical and other services, as shall be operated by GPL in Guyana in accordance with the Licence and shall include certain additional hydro electric generation activities if a licence is granted to GPL with respect to such activities;
- (m) “**Business Day**” means a day, other than a Saturday or a Sunday, when the major commercial banks are normally open for business and are open for business in the City of Georgetown, Guyana, S.A.;
- (n) “**Business Plan**” means the plan for the Business to be approved by the Board of Directors in accordance with Section 3.2 hereof;
- (o) “**By-Laws**” means the by-laws of the Company, a copy of which is attached as Schedule “B” hereto, as amended and supplemented from time to time;
- (p) “**CARICOM**” means those nations which are members of the Caribbean Community of States established by the treaty signed on July 4, 1973, at Chaguaramas, Trinidad, West Indies, as amended from time to time;
- (q) “**Centre**” means the International Centre for Settlement of Investment Disputes:

- (r) **“Chief Executive”** means the person appointed by the Board of Directors pursuant to Section 4.15 to act as an officer of the Company in the role commonly known as the general manager;
- (s) **“Claims”** mean all losses, damages, expenses, liabilities, settlements, claims and demands of whatever nature or kind including, without limitation, all legal fees and costs on a solicitor and client basis but excluding any indirect or consequential loss or damage including, without limitation, loss of profits;
- (t) **“Class A Preference Shares”** mean the Class A Preference Shares of the Company;
- (u) **“Class B Preference Shares”** mean the Class B Preference Shares of the Company;
- (v) **“Closing”** means the Closing defined in the Share Subscription Agreement;
- (w) **“Common Shares”** mean the common shares of the Company;
- (x) **“Convention”** has the meaning attributed thereto in paragraph 14.2(a) hereof;
- (y) **“Debenture”** means a G\$2,160,000,000 12% subordinated debenture which will be issued to the Government upon redemption of its Class B Preference Shares pursuant to the terms thereof;
- (z) **“Direct Deed”** means the agreement entered into on the date hereof between ESBI Facility Management Limited, the Investor and the Company;
- (aa) **“Dispute”** has the meaning attributed thereto in Section 14.1 hereof;
- (bb) **“Electricity Act”** means the Electricity Act, Cap. 56:01, of the laws of Guyana, as the same may be amended, repealed or superseded from time to time;
- (cc) **“ESRA”** means the Electricity Sector Reform Act, No. 11 of 1999, of the laws of Guyana, as the same may be amended, repealed or superseded from time to time;
- (dd) **“Escrow Agreement”** means the Share Subscription Escrow Agreement between Citibank (Trinidad and Tobago) Limited, the Investor, GPL and the Government dated the hereof;
- (ee) **“Fair Market Value”** means the fair market value as determined using usual capital market methods of valuation, as modified by the provisions of Sections 8.3, 8.4 and 8.6 hereof;

- (ff) **“GEC”** means a company established under the authority of the Electricity Act, Cap 56:01 and which will be converted to Guyana Electricity Company, Inc., a public company limited by shares subject to the Act, by order under the Corporation’s (Provision for Conversion into Public Companies) Act, No. 4 of 1999, and, following such conversion, “GEC” will refer to Guyana Electricity Company, Inc.;
- (gg) **“Guarantee Agreement”** means the guarantee executed on the date hereof by ESB International Limited in favour of GPL;
- (hh) **“Guyana”** means The Cooperative Republic of Guyana;
- (ii) **“International Accounting Standards”** mean the international accounting standards as prescribed by the International Accounting Standards Board;
- (jj) **“IPO”** or **“Initial Public Offering”** means the initial public offering of certain shares of the Company as contemplated under Article 6 hereof;
- (kk) **“Licence”** means the licence issued to GPL in accordance with ESRA, a copy of which is attached hereto as Schedule “C”;
- (ll) **“Management Agreement”** means the agreement to be entered into on the date hereof between the Investor and GPL, providing for the management of GPL by the Investor;
- (mm) **“Manager”** means the Manager as appointed under the Management Agreement;
- (nn) **“Operating and Agency Agreement”** means the Operating and Agency Agreement entered into between GEC and GPL dated the date hereof;
- (oo) **“Outside Directors”** mean persons elected to the Board of Directors who are not, or have not been, at any time, officers, directors or employees of the Investor or any its Affiliates;
- (pp) **“Parties”** mean all or any combination of the signatories to this Agreement their successors and permitted assigns, and **“Party”** means any one of them;
- (qq) **“Preference Shares”** mean the Class A Preference Shares and the Class B Preference Shares of the Company;
- (rr) **“Private Placement”** means any private placement of Shares and includes that Private Placement contemplated in Article 6 hereof;

- (ss) **"Promissory Note"** means the G\$2,601,000,000 principal amount promissory note issued by the Company to the Government on October 1, 1999;
- (tt) **"Public Shareholders"** mean the persons who acquire Common Shares subsequent to the date hereof other than by way of a transfer of Shares from a Shareholder;
- (uu) **"PUC Act"** means the Public Utilities Commission Act, No. 10 of 1999, of the laws of Guyana, as the same may be amended, repealed or superseded from time to time;
- (vv) **"Quadripartite Agreement"** means the agreement amongst the Guyana Trade Unions Congress, the Guyana Consumers Association, the Private Sector Commission and the Government of the Co-operative Republic of Guyana, a copy of which is attached to this Agreement as Schedule D;
- (ww) **"Region 10"** means the administrative region known as Region 10 or the Upper Demerara/Berbice Region as defined in the Democratic Organs Act, No. 12 of 1980;
- (xx) **"Share Subscription Agreement"** means the Share Subscription Agreement entered into between the Investor, the Government and GPL dated the date hereof;
- (yy) **"Shares"** mean any of the authorized shares in the capital of the Company, which as of the date hereof consist of an unlimited number of Common Shares, 12,000,000 Class A Preference Shares, 12,000,000 Class B Preference Shares and one Special Share;
- (zz) **"Shareholder Loans"** mean any loans or advances to GPL by a Shareholder or any of its Affiliates;
- (aaa) **"Shareholders"** mean collectively such of the Parties to this Agreement as are at the relevant time holders of Shares and **"Shareholder"** shall mean one of such Parties individually;
- (bbb) **"Special Share"** means the Special Share of the Company having the rights, privileges, restrictions and conditions attributed thereto in the Articles of the Company, a copy of which is attached hereto as Schedule "A";
- (ccc) **"Subcontract"** means the agreement between the Manager and the Subcontractor dated the date hereof;
- (ddd) **"Subcontractor"** means the party who enters into the subcontract with the Manager pursuant to Section 16.3 of the Management Agreement, or any replacement for such

Party with the consent of the Company pursuant to Section 16.2 of the Management Agreement;

- (eee) “**Supplementary Agreements**” mean the Share Subscription Agreement, the Management Agreement, the Escrow Agreement, the Direct Deed, the Guarantee Agreement, the Promissory Note, the Debenture and the Operating and Agency Agreement;
- (fff) “**Time of Closing**” has the meaning attributed thereto in paragraph 8.7(a); and
- (ggg) “**UNCITRAL Rules**” has the meaning attributed thereto in paragraph 14.2(c) hereof

1.2 Schedules - The following are the schedules attached to and incorporated in this Agreement by reference and deemed to be part hereof:

Schedule “A”	Articles
Schedule “B”	By-laws
Schedule “C”	The Licence
Schedule “D”	Quadripartite Agreement

ARTICLE 2 - SHARE OWNERSHIP

2.1 Share Capitalization

- (a) The Shareholders acknowledge that, as of the date hereof, the authorized capital of the Company consists of an unlimited number of Common Shares, 12,000,000 Class A Preference Shares, 12,000,000 Class B Preference Shares and one Special Share, of which 6,000,000 Common Shares, 12,000,000 Class A Preference Shares, 12,000,000 Class B Preference Shares and one Special Share are issued and fully paid as of the date hereof, as follows:

<u>NAME</u>	<u>NO. AND CLASS OF SHARES HELD</u>	
The Government	3,000,000	Common Shares
	6,000,000	Class A Preference Shares
	12,000,000	Class B Preference Shares
	1	Special Share

The Investor	3,000,000	Common Shares
	6,000,000	Class A Preference Shares

The Shareholders acknowledge that the Company and the Investor have entered into the Share Subscription Agreement pursuant to which the Investor has, subject to certain conditions, subscribed for an additional 14,450,000 Common Shares.

- (b) The Shareholders acknowledge that the Company will repay the Promissory Note through the issuance of 14,450,000 Common Shares to the Government, which shares, subject to the terms of the Share Subscription Agreement, will be issued coincident and on a pro rata basis with the issuance of additional Common Shares to the Investor pursuant to the terms of the Share Subscription Agreement.

2.2 Legend

- (a) All share certificates issued by the Company to the Shareholders shall have the following legend imprinted thereon:

THESE SHARES ARE SUBJECT TO CONTRACTUAL RESTRICTIONS ON THEIR TRANSFER AS CONTAINED IN THE SHAREHOLDERS' AGREEMENT DATED OCTOBER 1, 1999. A FULL COPY OF THE TEXT IS OBTAINABLE FROM THE COMPANY BY ANY PROPOSED TRANSFEREE ON DEMAND AND WITHOUT FEE.

The Shareholders shall ensure that all instruments issued by the Company that are convertible into Common Shares or Preference Shares or which evidence the right to acquire Common Shares or Preference Shares shall contain a legend to similar effect, except for Common Shares held by Public Shareholders.

- (b) Certificates - The Shareholders shall ensure that the legend set forth in Section 2.2(a) hereof shall be imprinted on the certificate representing the Common Shares and Preference Shares held by each of them prior to the execution of this Agreement.

2.3 Ownership of Shares - Other than as permitted in this Agreement, each Shareholder hereby represents and warrants to and covenants with each of the other Parties hereto that the Shares held by the Shareholder are and shall be owned beneficially by the said Shareholder and not as nominee of any Party, free and clear of all mortgages, leases, charges, pledges or other encumbrances.

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Additional Shares

- (a) Subject to the provisions of Article 6 of this Agreement, the Share Subscription Agreement and the Promissory Note in the event of the issuance of Shares of the Company after the date hereof, unless the Shareholders otherwise agree and excluding the Common Shares issuable on conversion of the Class A Preferred Shares, such Shares shall be offered to the Shareholders on a *pro rata* basis to their holdings of Common Shares at the time of such issue.
- (b) Purchase Option - Subject to Section 2.4(a), in the event that any of the Shares offered to the Shareholders pursuant to subsection 2.4(a) are not purchased and paid for by a particular Shareholder within 60 days then all or a portion of such shares may be purchased by the other Shareholders at their option on a *pro rata* basis equal to the aggregate number of Common Shares (including those Shares they may have purchased pursuant to subsection 2.4(a) hereof) which are held by such electing Shareholder at such date.

2.5 Share Redemptions - Subject to the other provisions of this Agreement, in the event that there are any redemptions or purchases of Shares of any class by the Company or cancellation or other reduction of the share capital of the Company, such redemption, purchase or reduction shall be offered or applied on a *pro rata* basis to all the holders of such class of Shares.

ARTICLE 3 - CAPITAL CONTRIBUTIONS AND SUBSIDIES

3.1 Shareholder Contribution - The Shareholders acknowledge that additional capital will be required by the Company from time to time in respect of capital or other improvements, and such other matters as the Shareholders may agree. The Shareholders agree that neither of the Shareholders has an obligation to advance funds or subscribe for any further capital to fund such capital or other improvements and that the Investor's only obligation in this regard is to provide services under the Management Agreement with respect to the procurement of additional financing, when required. If a Shareholder elects to loan additional capital to the Company on a lending basis, such loan capital shall bear an interest rate at the prime bank rate of the currency in which the loan is payable which is in effect from time to time during the period in which such loan or any part thereof is outstanding, together with such premium as shall be approved by two-thirds of the Board of Directors at the time of the advances, and shall otherwise be on terms and conditions competitive with financing available from Guyanese banks. Any such financing by a Shareholder to the Company shall, unless otherwise approved by two-thirds of the Board of Directors, be unsecured and subordinated to all other long term liabilities of the Company owed to third parties, and all such amounts owing to Shareholders shall be equally subordinated. The Parties also agree hereby that, in determining the premium discussed above, such premium shall reflect only the fair market value of

the risk attendant to such loan and a fair compensation for any administrative costs required by such Shareholder.

3.2 Annual Budget and Five-Year Plan - Subject to the provisions of the Management Agreement, the Shareholders shall cause GPL to obligate the Manager to draft an annual budget and a five-year plan for the Company which shall be subject to the approval of the Directors of the Company to be revised annually which will include, among other things, matters with respect to the raising of additional debt and equity financings by the Company.

3.3 Foreign Currency -

- (i) During the term of this Agreement, the Government agrees to cause the Bank of Guyana to provide GPL with a fuel purchase facility pursuant to which GPL will be entitled to purchase with Guyana dollars the fuels it requires for the generation of electricity.
- (ii) The Government also agrees to cause the Bank of Guyana to sell sufficient United States dollars to GPL to meet all obligations of GPL as of Closing to the Wartsila Companies (as defined in the Share Subscription Agreement) pursuant to the Lease dated May 9, 1996, as amended, for the 22 MW Kingston power plant, and the Lease dated March 31, 1996, as amended from time to time, for the 11 MW Garden of Eden II power plant, and the Operation and Maintenance Agreement dated January 1, 1994, as amended from time to time, for the Kingston and Garden of Eden power plants;
- (iii) The Parties also agree that GPL will be entitled to maintain one or more United States dollar accounts with one or more internationally recognized banks, including banks located outside of Guyana, to hold United States dollars that have been sourced both within Guyana and internationally; and
- (iv) The Parties acknowledge that subject to subsections (i) and (ii) above, GPL will source its foreign exchange requirements through commercial banks in Guyana. The Government agrees that any request from a commercial bank to the Bank of Guyana to secure foreign exchange for GPL requirements shall be treated on a basis no less favorable than the most favourable treatment afforded to any other such request to the Bank of Guyana.

3.4 Subsidies From the Government - Pursuant to the Quadripartite Agreement, the Government has agreed to subsidize the difference between published headline tariff rates (the "Headline Rates") and the lower actual rates charged to consumers (the "Actual Rates"). The Government hereby agrees to provide such subsidy to GPL as follows:

- (a) the subsidy required to compensate for the difference between the Headline Rates and the Actual Rates, if any, shall be determined by GPL on a quarterly basis based on the electricity sales for the previous three months; provided, however, that this timing may be extended due to any difficulties that GPL may encounter due to the computer and billing systems in place at the time of Closing;
- (b) upon the determination of the amount of subsidy payable by the Government pursuant to subsection (a) above, the Company shall provide a notice to the Government which shall specify:
 - (i) the amount of subsidy payable;
 - (ii) the amount of Retained Accounts Receivable (as defined in the Operating and Agency Agreement) collected by GPL on behalf of GEC pursuant to the Operating and Agency Agreement; and
 - (iii) the deficiency, if any, between (ii) and (i) above (the "Deficiency");
- (c) upon delivering such notice to the Government, GPL shall be entitled to apply to its own account such amount of collected Retained Accounts Receivable as is necessary to fund the subsidy payable;
- (d) the Deficiency, if any, shall be paid by the Government within 30 days of receipt of such notice; and
- (e) interest on any amount which remains overdue and unpaid by the Government after 30 days from receipt of such notice shall accrue at the rate specified in GPL's standard terms and conditions.

For greater certainty, the Parties agree that the determination on a quarterly basis of the amount of any subsidy due shall be made concurrently with the quarterly determination of the amount of the Retained Accounts Receivable collected on behalf of GEC under the Operating and Agency Agreement.

The Parties acknowledge that pursuant to the Quadripartite Agreement, in the event that the Government does not make the required subsidy payments to GPL in accordance with the provisions of this Agreement, GPL shall be entitled to raise electricity tariffs charged to customers up to the Headline Rates. The Parties agree that if GPL does raise Actual Rates charged to consumers where the Government has failed to pay the required subsidy, the Government shall only remain liable to GPL to the extent the raising of such rates does not fully compensate GPL for the amount of the unpaid subsidy.

ARTICLE 4 - BUSINESS AND AFFAIRS OF THE COMPANY

4.1 Books of Account - Proper books of account shall be kept by the Company and entries shall be made therein of all such matters, terms, transactions and things as are usually written and entered in books of account kept by companies engaged in prudent commercial enterprises of a similar nature in the United Kingdom, provided the same shall be reasonably approved by the auditors of the Company. The Parties hereby acknowledge that the existing books of account may not meet accounting standards otherwise required under this Agreement. Accordingly, the Shareholders shall direct the Board of Directors to cause the books of account to meet such standards as soon as reasonably practicable.

4.2 Directors' Right to Inspect - Each of the Directors shall have free access to inspect at reasonable times and examine the said books of account.

4.3 Banking Operations - The banking operations of the Company shall be conducted only at reputable and creditworthy financial institutions of national or international standing, as directed by the Board of Directors.

4.4 Bank Accounts - All bank accounts shall be kept in the name of the Company and all monies received from time to time on account of the Business by the Company shall be paid, on the day of receipt or the next following Business Day or if this is not reasonably practicable, as soon as reasonably practicable thereafter, into such bank accounts, for the time being in operation, in the same draft, cheque, bill, cash or other instrument in which they are received and all disbursements on account of the Business of the Company shall be made by cheque or other instrument or means on such bank or banks. For the purposes of this section, the term "bank" shall be deemed to include any other financial institution validly offering banking services to the public.

4.5 Directors Fees - The Company shall be entitled to pay Directors fees to Directors for services rendered, provided however, that without the prior written consent of the Government, such fees shall not exceed US\$1,000 per meeting attended (and US\$1,000 per day of travel time for Outside Directors up to two days per meeting) and reimbursement for reasonable travel expenses.

4.6 Composition of the Board of Directors - Subject to Section 4.10 below, the Board of Directors shall consist of five (5) Directors with each Director to hold office for a term of one (1) year, except as may be otherwise provided in accordance with the By-laws. Subject to Section 4.7 hereof, the Investor, for so long as it is a holder of Common Shares, shall be entitled to nominate a total of two (2) Directors. Subject to Section 4.7 hereof, the Government, for so long as it is a holder of Common Shares, shall be entitled to nominate a total of two (2) Directors. One (1) additional Director shall be selected by the Government from a list of two candidates presented by the Investor either of whom would qualify as an Outside Director. For greater certainty, notwithstanding that a Director is nominated by a particular Shareholder, such Director shall have all of the fiduciary obligations to the Company provided by Applicable Law. The Government shall have 30 days from

its receipt of the names of the two (2) candidates proposed by the Investor to make its selection; if the Government does not make such selection within the specified time, the Investor may make such selection. Notwithstanding anything else in this Agreement or the Act, no meeting of the Board of Directors shall be called or convened for any purpose other than the appointment of a new Outside Director so long as there are any vacancies of positions on the Board of Directors which are to be filled by Outside Directors pursuant to this Section or Section 4.10 hereto. Any Shareholder that has the ability to nominate a Director pursuant to this Agreement shall also have the right to cause such Director to be removed, at any time and for purposes of this Section, Section 4.10 and Section 4.14 only, Outside Directors shall be deemed to be nominated by the Investor. Each Shareholder agrees to vote its Shares (in a meeting of Shareholders or by unanimous consent resolution) so as to ensure that the Director(s) nominated or removed pursuant to this Section is (are) elected or removed, as the case may be, as expeditiously as possible. Any removal of a Director shall become effective at such time as determined by the Shareholder so removing, and the effective date shall be set forth in the unanimous consent or resolution effecting such removal. In the event of a removal of a Director, the nomination and selection of the replacement Director shall be in accordance with this Section.

4.7 Change in Composition of Board of Directors - The Parties agree that in the event that either Shareholder disposes of Common Shares such that as a result of such disposition such Shareholder's shareholding decreases by a number of Common Shares which is more than 20% of the total outstanding number of Common Shares of the Company, the composition of the Board of Directors shall be adjusted appropriately. The Shareholders shall negotiate in good faith the mechanism by which the composition of the Board of Directors will be adjusted to reflect the change in relative shareholdings. If the Shareholders are unable to agree, the matter shall be resolved in accordance with Article 14 hereof. In this Section, the reference to a Shareholder's shareholding includes the shareholdings of its Affiliates.

4.8 Alternate Directors - Each Shareholder shall, from time to time, be entitled to designate in writing to the Board of Directors of the Company one other person willing to act as an alternate Director for each of its nominees other than the Outside Directors selected by the Government from the list candidates presented by the Investor. Each Shareholder may, by similar notice in writing, remove or replace an alternate Director from time to time. Each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which the Director for whom he is the designated alternate is a member, and to attend and vote at any such meeting at which the Director for whom he is the alternate is not personally present or otherwise participating in, and generally to perform all functions of the Director for whom he is the alternate as a Director in his absence. An alternate Director shall cease to be an alternate Director if the Director for whom he is the alternate ceases to be a Director. At any meeting of the Board of Directors at which an alternate Director attends in place of the Director for whom he is the alternate, such alternate Director shall be deemed for all purposes to be a Director, including in respect of fiduciary duties, and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director for whom he is the alternate. The designation of an alternate Director and any acts of such alternate Director shall in no way diminish the fiduciary

obligations of the Director for whom he is the alternate or the obligation of every Director (alternate or otherwise) to ensure that prior to any meeting of the Board at which he would act as a Director, he fully informs himself as to all relevant information relating to matters pending before the Board at such meeting.

4.9 Quorum - Prior to completion of the IPO, the quorum for a Board of Directors' meeting shall be four (4) Directors and if at a meeting of the Board of Directors there is no quorum, the Directors present at such meeting shall adjourn the meeting for a period of not less than 24 hours and not more than 48 hours at which adjourned meeting the quorum shall be three (3) Directors.

4.10 Additional Directors After IPO - The size of the Board of Directors shall be increased by two (2) additional Directors after completion of the IPO. One (1) additional Director shall be elected by the Public Shareholders and one (1) additional Director shall be selected by the Government from a list of two (2) Directors submitted by the Investor, each of whom would qualify as an Outside Director. The Government shall have 30 days from its receipt of the names of the two (2) candidates proposed by the Investor to make its selection; if the Government does not make such selection within the specified time, the Investor may make such selection.

4.11 Quorum after IPO - The quorum of the Board of Directors so constituted after completion of the IPO shall be increased to five (5) Directors and, if at a meeting of the Board of Directors there is no quorum, the Directors present at such meeting shall adjourn the meeting for a period of not less than 24 hours and not more than 48 hours at which adjourned meeting the quorum shall be four (4) Directors.

4.12 Selection of Chair and Vice-Chair - The Chair and Vice Chair of the Board of Directors shall be selected by a simple majority vote of the Board of Directors, provided that, without the consent of the Government and the Investor, at all times the Chair and Vice-Chair cannot both be nominee Directors of either the Government or the Investor. The Chair and the Vice Chair shall not have a casting vote or other special voting rights. The Chair shall consult with the Vice Chair concerning the calling of meetings of the Board of Directors and the setting of agendas for such meetings. The Shareholders shall cause their nominee Directors to vote in favour of the foregoing and to do such other acts as are necessary to effect the foregoing.

4.13 Residency - There shall be no requirements that present or future Directors be resident in Guyana.

4.14 Vacancy in Board of Directors - In the event that a vacancy shall occur on the Board of Directors, each Shareholder shall exercise its, and shall ensure that its nominee Directors exercise their, voting rights to fill such vacancy as soon as practicable with a nominee of the Shareholder who nominated the vacating Director, which nominee shall be nominated and elected in the same manner as was his predecessor as set forth in Section 4.6. Notwithstanding the foregoing, in the case of a vacancy of the position of an Outside Director selected by the Government from a list of two

nominees proposed by the Investor, the Investor must provide the names of two (2) candidates within fourteen (14) days of the vacancy and the Government shall have thirty (30) days from the date of notification of the names of the two candidates proposed by the Investor to make its selection. If the Government does not make such selection within the specified time, the Investor may make such selection. Notwithstanding anything else in this Agreement or the Act, no meeting of the Board of Directors shall be called or convened for any purpose other than the appointment of a new Outside Director so long as there are any vacancies of positions on the Board of Directors which are to be filled by Outside Directors pursuant to Section 4.6 or Section 4.10 hereof.

4.15 Appointment of Officers - The Shareholders acknowledge that the Investor has been appointed as Manager of the Company with certain rights and powers to supervise, direct and control the management and operations of the Company. The Board of Directors, acting in its discretion on the recommendation of the Manager, shall appoint the Chief Executive as an officer of the Company and any other person who may, from time to time, act in the role of Chief Executive. The Board of Directors, acting in accordance with the recommendations of the Manager, shall appoint the other officers of the Company, and the Manager shall appoint persons to other Key Positions and Specified Positions (as defined in the Management Agreement). Each of the Shareholders shall ensure that their respective nominee Directors vote to appoint the officers put forth by the Manager for such appointment.

The Chief Executive shall report to the Board of Directors as required or as otherwise determined under the Management Agreement.

4.16 Appointment of Auditors - The auditor of the Company shall be a partner of a firm of auditors of international stature, which partner and firm shall be unaffiliated with any of the Shareholders and members of the Institute of Chartered Accountants of Guyana as the Shareholders shall appoint from time to time and such auditor shall, at the fiscal year end of the Company (and at such other times as may be reasonably requested by the Board of Directors), make an audit of and examine the books and accounts of the Company and for such purposes the Auditor shall have access to all books of account, records and all vouchers, cheques, papers and documents of or which may relate to the Company.

4.17 Function of Board of Directors - The Shareholders agree that the function of the Board of Directors shall include, but shall not be limited to, directing the following matters in respect of the Company and that in directing such matters each Director shall act honestly and in good faith with a view to the best interests of the Company and to exercise therein the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances:

- (a) directing the management of the business and affairs of the Company;
- (b) adopting a strategic planning process and monitoring the success of the Manager of the Company in implementing the same;

- (c) identifying the primary risks attendant upon the Company and ensuring that there is an appropriate system in place to monitor and to mitigate against such risks;
- (d) developing a succession planning program which includes appointing and monitoring senior management personnel;
- (e) developing a communications policy to ensure effective communication among the Company, the Shareholders, and the general public;
- (f) implementing control and information systems adequate to ensure the integrity of the corporate internal controls and management information systems;
- (g) reviewing and approving the annual budget and five-year plans prepared by the Manager;
- (h) reviewing and approving the quarterly and annual financial reports, and such other reports as are prepared for the Board of Directors by the Manager;
- (i) reviewing and approving any additions, deletions or other changes to the Business Plan which may be proposed by the Manager;
- (j) directing, reviewing and ratifying, if appropriate, the activities and decisions conducted by committees of the Board of Directors, including the Audit Committee established hereunder;
- (k) directing, reviewing and ratifying the activities, conduct and decisions of the Manager as may be required under the Management Agreement;
- (l) considering the performance by the Manager of its obligations under the Management Agreement; and
- (m) considering and approving all such other matters as do not arise in the ordinary conduct of the Business.

4.18 Related Party Matters

- (a) A Director shall not be prohibited from voting on any matter simply because such matter involves a transaction or agreement with the Party (which, in the case of the Investor shall include its Affiliates and Associates, and in the case of the Government shall include any department, or agency of the Government or any public corporation that is majority-owned, directly or indirectly by the Government) that has nominated such Director to the Board of Directors. On any vote by the Board of Directors

relating to any transaction or agreement with the Investor or any Affiliate thereof (an "Investor Transaction"), or with GEC, the Government, or any department or agency of the Government or any public corporation that is majority-owned, directly or indirectly, by the Government (a "Government Transaction"), concerning the purchase or sale of goods or services, or the borrowing or lending of monies, such vote shall only be carried if: (i) in the case of an Investor Transaction, a majority of the Directors nominated by the Government and Outside Director(s), counted together, vote in favour of such matter or (ii) in the case of a Government Transaction, a majority of the Directors nominated by the Investor and the Outside Director(s), counted together, vote in favour of such matter.

- (b) Without limiting the generality of the foregoing, resolutions in respect of the following matters shall not be carried unless a majority of the votes cast by the nominees of the Government and the Outside Director(s), counted together, at a meeting of the Board of Directors at which any of such matters are considered, are cast in favour of such resolution:
- (i) considering any alleged breach by the Manager of a term of the Management Agreement;
 - (ii) considering or taking any actions required to enforce any covenants or any material terms of the Management Agreement or any actions required in response to any breach or alleged breach by the Manager of the Management Agreement;
 - (iii) considering the Company's response to a request from the Manager to consent to assignment of the Management Agreement by the Manager to another person;
 - (iv) considering any proposed amendment to the Management Agreement (for greater certainty, a vote on the first five year extension of the term of the Management Agreement shall not be considered to be an amendment to the Management Agreement);
 - (v) considering any extension or renewal of the Management Agreement with the Investor beyond the date which is 15 years after the Commencement Date (as defined in the Management Agreement), or the appointment by any other means of the Investor or any of its Affiliates or Associates as manager of the Company or in any similar capacity beyond that date; and
 - (vi) the Company's compliance with a direction from the Government to terminate the Management Agreement pursuant to Sections 3.4 and 12.3 thereof.

- (c) Notwithstanding (a) above, the Directors appointed by the Investor shall be entitled to vote on any matters relating to the Management Agreement other than those matters set forth in Section 4.18(b) above and, unless the matter involves the purchase or sale of goods or services, or the borrowing or lending of monies, between the Manager and the Company, the restrictions contained in Section 4.19(a)(i) shall not apply to such votes.

4.19 Scope of Board Discretion - The Shareholders agree to cause the Board of Directors of the Company to direct the affairs of the Company in a manner consistent with:

- (a) this Agreement;
- (b) the Articles and By-laws of the Company;
- (c) the regulatory regime applicable to the Business and the Company's conduct of the Business, including the Act, PUC Act, ESRA and all applicable legislation;
- (d) the terms and conditions of the License;
- (e) the terms and conditions of the Management Agreement; and
- (f) the Business Plan, which will include the Operating Standards and Performance Targets.

4.20 Committees of the Board - In addition to the Audit Committee, the Board of Directors may, by simple majority, create an Executive Committee, or any other committees deemed appropriate from time to time, with such authority as may be delegated to it by the Board of Directors, provided that, unless otherwise unanimously agreed by the Board of Directors, any such Committee shall consist of three members composed of one Director chosen by the Government, one Director chosen by the Investor and one Outside Director, and provided that such delegation shall not derogate from those matters requiring special consent pursuant to Section 5.1 hereof.

4.21 Audit Committee - The Shareholders agree to cause the Board of Directors of the Company to elect from the Directors within sixty (60) days of the date hereof, and on an annual basis thereafter, an Audit Committee of the Board of Directors in the manner specified in Section 4.21 hereof provided that the Director chosen by the Investor shall not be (i) an employee or officer of the Company; or (ii) an employee or officer of the Investor, or any of its Affiliates or Associates, who is directly involved in the day to day management of the Business, other than in his or her capacity as a Director. The Audit Committee shall advise the Board of Directors in respect of:

- (a) the ongoing review of the internal control procedures of the Company;

- (b) the ongoing review of the Company's accounting systems, information systems, and internal control structures;
- (c) the consistency and fair presentation of accounting and operating information and other treatment in the audited and unaudited financial statements of the Company;
- (d) ensuring that the auditors of the Company have full and open access to all of the books and records of the Company consistent with the performance of their auditing function;
- (e) the performance and remuneration of the auditors; and
- (f) any other matters as are delegated to it by the Board of Directors.

4.22 Meetings of the Board of Directors - All meetings of the Board of Directors shall be held in Guyana (unless otherwise agreed to by two-thirds (2/3) of all of the Directors) and shall take place on an approximately monthly basis, but in any event no less frequently than once every eight weeks for the first 18 months after the Commencement Date, and thereafter on a quarterly basis unless extraordinary circumstances intervene. Notwithstanding the foregoing, it is acknowledged that the majority of the meetings of the Board of Directors are to be held in Guyana. The Shareholders hereby consent, and agree to cause their nominees to the Board of Directors to consent, to one or more Directors of the Company attending meetings of the Board of Directors by teleconference call or video conference call, or other communications facilities as would permit all persons participating in the meeting to hear one another, and will undertake, and cause their nominee Directors to undertake, not to make any electronic or other complete record or transcript of all of the proceedings at such meetings without prior notification to all of the Directors and the approval of two-thirds (2/3) of the Directors present at such meeting.

4.23 Objectives of the Company - The Shareholders agree that they shall cause the Board of Directors of the Company to establish a mission statement of the Company within six (6) months of the date hereof. Such mission statement shall include statements to the effect that the Company shall operate in compliance with all Applicable Law, the Licence and the Management Agreement. Such mission statement will also include a statement to the effect that the Company will be operated in a manner so as to ensure its long-term viability, and its commitment to supply reliable, efficient and affordable electric power to the people of Guyana.

4.24 Articles and By-laws - The Shareholders and the Company agree that the Articles and By-laws will at all times be consistent with and will not violate any provisions of this Agreement and that the Articles and By-laws will not, at any time, be amended or repealed nor will any Articles be adopted or By-laws made which would violate or be inconsistent with any of the provisions of this Agreement.



ARTICLE 5 - FUNDAMENTAL CHANGES

5.1 Matters Requiring Special Consent - In addition to any shareholder approvals required under the Act, no action by the Company shall be taken on any of the following matters without the consent of at least two-thirds (2/3) of the members of the Board of Directors entitled to vote on such matters:

- (a) any amendments to or repeal of the Articles or By-laws or other constating documents of the Company;
- (b) any change in the number of members of the Board of Directors from that provided for herein and any action which would derogate from the rights of the Parties to nominate and elect Directors as set out above;
- (c) any change in the domicile or registered office of the Company;
- (d) any consolidation, merger, amalgamation or other combination by the Company with any other corporation or entity;
- (e) any alteration or modification of the authorized share capital of the Company, including but not limited to the creation or withdrawal of any class of shares of the Company;
- (f) any sale, transfer, assignment or other disposal of all or substantially all of the assets and undertaking of the Company, or any acquisition or disposition by the Company of any property (other than inventory acquired or disposed of in the ordinary course of business) having a value in excess of 20% of the aggregate value at which the assets of the Company, are carried on its books;
- (g) the issue or entry into any agreement for the issue of Shares, including but not limited to the private placement and the Initial Public Offering under Article 6 hereof, or the issue or transfer of any obligations, charges, debts or other instruments convertible into Shares or involving rights to vote except as otherwise provided herein and in the Share Subscription Agreement;
- (h) the taking or institution of any proceedings for the winding up, dissolution, termination or reorganization of the Company;
- (i) any material change in the undertaking of the Business or any operation by the Company or any material transaction out of the ordinary course of the Business of the Company;

- (j) the making of any distribution (other than in accordance with the dividend policy or by way of share redemption), or making, recommending or declaring any dividend beyond the provisions of the dividend policy, as set forth in Section 15 hereof, in cash, stock or specie (including bonuses) to Shareholders or Directors;
- (k) the borrowing of any individual amount by the Company or the encumbrance of any asset or assets which exceed 20% or more of the value at which the assets of the Company are carried on its books, or amounts which during any fiscal year will in aggregate exceed 33 1/3% of such value;
- (l) the making of any individual capital expenditure which exceeds 20% or more of the value at which the assets of the Company are carried on its books, or amounts which during any fiscal year will in aggregate exceed 33 1/3% of such value;
- (m) the entering into by the Company of any material contract or other commitment out of the ordinary course of the Business, or any material contract or commitment which has a term exceeding ten (10) years, but not including the first five year extension of the Management Agreement;
- (n) the giving of any form of financial assistance to any Shareholder; or
- (o) the fixing of or any material change to the compensation, bonus or other form of remuneration to a Director.

For greater certainty, the Shareholders agree that the Board of Directors approval for the filing of proposed amendments to electricity tariffs pursuant to the License or ESRA shall require the approval of only a simple majority of the Board of Directors.

5.2 Matters Requiring Consent of Special Shareholder - Notwithstanding any other provision hereof, no action shall be taken by the Company on any of the following matters without the consent of the Shareholder owning the Special Share:

- (a) any consolidation, merger, amalgamation with any other corporation or entity by the Company;
- (b) any sale, transfer, assignment or other disposal of all or substantially all of the assets and undertaking of the Company, or any disposition by the Company of any property (other than inventory acquired or disposed of in the ordinary course of business) having a value in excess of 33-1/3% of the value at which the assets of the Company are carried on its books;

- (c) any alteration or modification of the authorized share capital of the Company, including but not limited to the creation or withdrawal of any class of shares or other securities of the Company;
- (d) the issue of shares of the Company or any obligations, charges, debts or other instruments convertible into shares of the Company or involving rights to vote at any meeting of shareholders of the Company except as otherwise provided herein;
- (e) any material change in the Business, including any such change by way of any acquisition;
- (f) any change to the rights and obligations attributed to the Special Share;
- (g) any debt or equity financing in excess of 33 1/3% of the value at which the assets of the Company are carried on its books;
- (h) the Initial Public Offering of Common Shares by means of the sale, on a pro rata basis, of Common Shares held by the Investor and the Government, as set forth in Section 6.3(i) hereof; and
- (i) any debt financing which would have the effect of making the Company's debt/equity ratio in excess of 2:1.

5.3 Vote of Directors on Special Matters - The Shareholders shall cause their respective nominee Directors to act in accordance with the terms of Sections 5.1 and 5.2 hereof and shall be strictly responsible for the actions of their respective nominees.

5.4 The Investor's Shareholdings - The Shareholders hereby covenant and agree that, in the event that the Investor's direct ownership in the Common Shares of the Company should fall below 25% of the total issued Common Share capital of the Company during the term of the Management Agreement and where such reduction in shareholding has occurred without the permission of the Government, the Government shall have the right, but not the obligation, to cause the Board of Directors of the Company to terminate the Management Agreement in accordance with the provisions thereof. At any meeting of the Board of Directors of the Company at which such termination is discussed or considered, the Directors nominated by the Investor (excluding the Outside Directors) shall, in accordance with Section 4.19 of this Agreement, not be entitled to vote, and the Investor shall take all such actions and execute all such documents or other instruments as may be necessary or advisable to facilitate such termination in accordance with the terms of the Management Agreement.

5.5 Valuation of Assets - Notwithstanding the foregoing, the Investor shall have the right to conduct a valuation of the assets of GPL at any time and should such valuation be conducted, the

value of GPL's assets as determined by such valuation shall be used in place of the book value of GPL's assets for the purpose of the calculations in Sections 5.1(f), (k), and (l) and 5.2(b) and (g) above.

ARTICLE 6 - PRIVATE PLACEMENT AND INITIAL PUBLIC OFFERING

6.1 Private Placement -The Parties hereto agree that, within 24 months of the date hereof, they shall use their best efforts to cause the Company to issue, through an open and transparent process, up to 5% of the then-issued Common Shares to investors agreed to by each of the Parties that are a broad-based group of Guyanese public and private sector institutions. The Parties agree that in order to reflect the phasing in of the Investor's investment in GPL as provided for in the Share Subscription Agreement, the subscription and issuance of shares under the private placement may occur in up to three tranches. The Parties, acting reasonably and in good faith, must agree on the terms and conditions of such private placement.

6.2 Time of IPO - Notwithstanding anything else contained in this Agreement and, in particular, Section 2.4 hereof, the Shareholders shall cause the Company to make its best efforts to undertake and close the Initial Public Offering on commercially prudent terms, no later than five years from the date of Closing. Notwithstanding the foregoing, the timing and occurrence of the Initial Public Offering shall be at the discretion of the Board of Directors of GPL taking into consideration the recommendation of the Manager.

6.3 Nature of IPO - The Initial Public Offering undertaken by the Company shall have the following attributes:

- (a) The securities issued pursuant to the Initial Public Offering shall be issued at Fair Market Value. The proceeds of the Initial Public Offering will be used at the discretion of the Board of Directors for such purposes as improvement of general working capital, or for investment in system expansion;
- (b) The shares to be offered will be a class of Common Shares with specific terms to be determined at the time of the Initial Public Offering;
- (c) The Initial Public Offering share issue shall result in the Public Shareholders (including those, if any, purchasing pursuant to a private placement prior to the IPO) holding a total number of shares not greater than 20% of the Common Shares outstanding after the issuance of the Common Shares under the Initial Public Offering;
- (d) Unless otherwise agreed by the Shareholders, the Shareholders shall not be entitled to subscribe for or to purchase, whether directly or indirectly, the Common Shares offered by the Company on the Initial Public Offering;

- (e) An independent financial institution resident in Guyana acting as an escrow agent will be used to hold all subscription proceeds, if any, prior to the issue of the Common Shares pursuant to the Initial Public Offering;
- (f) Subscriptions will be accepted in the following priority: first, from citizens or permanent residents of Guyana; second, from residents of other CARICOM nations; and finally, from residents of other jurisdictions. In the event of an over-subscription, the shares shall be allocated in a manner that respects this priority policy;
- (g) The Board of Directors in consultation with the Manager will implement a program to facilitate the purchase of shares by employees of the Company at the time of the Initial Public Offering. The program will be consistent with generally accepted employee share ownership programs in countries with developed capital markets;
- (h) To ensure the success of the Initial Public Offering, the Parties hereto acknowledge that it may be desirable to put into place some form of standby purchase commitment from a major purchaser or subscriber; and
- (i) Notwithstanding the foregoing, the Shareholders may agree if it is in the best interest of the Company that the Common Shares offered for sale in the IPO shall be shares owned by each of the Government and the Investor rather than new Common Shares issued from treasury. Should the Investor and the Government agree to effect the IPO in this manner, they shall each sell an equal number of Common Shares in the IPO. In the absence of such agreement, the Common Shares offered for sale in the IPO shall be new shares issued by the Company from treasury.

ARTICLE 7 - GENERAL RESTRICTIONS ON TRANSFER OF SHARES

7.1 No Transfer Permitted - Except as hereinafter provided in this Agreement, no Shareholder shall transfer by sale or gift, or in any way bequeath, or encumber by pledge, assignment, mortgage or charge, or otherwise dispose of or cease to be the holder of (the foregoing being collectively referred to in this Article as a "transfer") any of the Shares of which it is at any time the registered or beneficial owner, without the prior written consent of the other Shareholders, which consent shall not be unreasonably withheld.

7.2 Permissible Pledges as Security - With the consent of the other Shareholders, which consent shall not be unreasonably withheld, any Shareholder may hypothecate, mortgage, pledge, charge, encumber or otherwise grant a security interest in any of its Shares (other than the Special Share, which may not under any circumstances be hypothecated, mortgaged, pledged, charged, or otherwise encumbered in any manner whatsoever) to a bona fide creditor as security for any loan or other indebtedness, provided that the proposed creditor is acceptable to the other Shareholders,

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acting reasonably, and provided that such creditor enters into an agreement with the other Shareholders. Such agreement shall be in a form acceptable to the other Shareholders, acting reasonably, and shall provide that, if such creditor exercises any of its remedies in respect of such hypothecation, mortgage, pledge, charge, encumbrance or security interest, the creditor shall not foreclose on, dispose of or otherwise retain such Shares but shall sell them in accordance with the provisions of Article 8 hereof (with such creditor being deemed to be the Seller), and shall grant the Shareholder a right of subrogation to the rights of the Shareholder granting the security in the event of default under the security agreement. If either Party proposes to grant a security interest under this Section, the Party granting the security shall deliver drafts of the agreements referred to in this Section to the other Party and if no comments are received within sixty (60) days after delivery of such agreements, the other Party shall be deemed to have accepted the form of such agreements.

7.3 Party to Shareholders' Agreement - In the case of any permitted transfer, other than pursuant to the IPO, to any person other than another Shareholder, no such transfer shall be made, shall be effective or shall be registered on the books of the Company until the proposed transferee becomes a Shareholder Party to this Agreement by executing this Agreement and such other instruments as counsel for the Company shall advise as being necessary or desirable.

7.4 Rights and Obligations of Transferee - Upon any transferee of Shares becoming a Shareholder party to this Agreement, such transferee shall, with respect to the Shares acquired and held by such transferee, have the same rights and obligations under this Agreement as the transferor of such Shares had under this Agreement with respect to such Shares, and any reference in this Agreement to the transferring party shall be deemed to be a reference to and including the transferee party.

7.5 Limited Entitlement to Acquire Shares - Notwithstanding any other provision of this Agreement, except in accordance with any right to purchase Shares as provided under Section 7.2 and Articles 8, 9 and 11 hereof, in no event shall any Shareholder, collectively with its Affiliates and Associates, be entitled to or acquire more than 50% of the outstanding Common Shares of the Company without the consent of the other Shareholders.

ARTICLE 8 - BANKRUPT AND DEFAULTING SHAREHOLDER

8.1 Events of Default - In the event that a Shareholder commits any of the following acts, such Shareholder shall be deemed a "Seller":

- (a) is declared bankrupt, makes an assignment for the benefit of creditors, or has a receiving order made against it; or
- (b) has taken steps to voluntarily dissolve or wind-up, or a court of competent jurisdiction requires it to be wound-up; or

- (c) is in breach of or in default in any material respect under any of the material provisions of this Agreement for greater than thirty (30) days after having received:
- (i) a written notice of same from any other Shareholder; and
 - (ii) a confirmation of such material breach or default shall have been handed down by an Arbitral Tribunal in accordance with Article 14 hereof.

8.2 Option to Purchase Shares

- (a) Option to Purchase Shares - The other Shareholders shall have the option but not the obligation to purchase some or all of the Shares owned by the Seller, unless otherwise agreed among them, on a pro rata basis equal to the percentage of the aggregate number of Shares of all classes then held by each Shareholder other than the Seller, which option shall be exercised by giving written notice to the Seller and to the Company within thirty (30) days (the "Option Period") of receipt of the written notice and confirmation referred to in Section 8.1 hereof. The Shares shall be purchased for a price and in the manner calculated and set forth in Sections 8.3 through 8.6 hereof.
- (b) Shares Not Purchased - If any Shareholder does not take up his option for his *pro rata* proportion of the Shares of the Seller pursuant to Section 8.2(a), the unclaimed Shares shall be used to satisfy any request made by any other Shareholders who have indicated in their written notice, above, that they desire to purchase Shares in excess of their *pro rata* proportion. The Company shall, forthwith after the expiry of the Option Period, notify in writing those Shareholders who indicated a desire to purchase Shares in excess of their initial *pro rata* proportion of the existence and nature of the unclaimed Shares, which Shares are to be taken up by the notified Shareholders on a *pro rata* basis equal to the number of Shares (including those taken up by them pursuant to Section 8.2(a)) then held by each Shareholder, or as otherwise agreed to among such Shareholders. Such Shareholders shall have thirty (30) days (the "Subsequent Option Period") from the date of the delivery by the Company of the aforesaid notice to give written notice to the Seller and to the Company of their exercise of this supplemental option.
- (c) Right of Company to Cancel Unpurchased Shares - In the event the other Shareholders do not exercise the above options so as to have purchased some or all of the Shares owned by the Seller, the Company shall have the option to purchase for cancellation some or all of the Shares owned by the Seller, which option shall be exercised by giving written notice to the Seller and the other Shareholders within thirty (30) days of the expiry of the Subsequent Option Period, for a price and in the manner calculated and set forth in Sections 8.3 through 8.6 hereof. Directors

nominated by a Seller shall not vote on whether to purchase and cancel such unpurchased Shares.

8.3 Purchase Price - The purchase price for any Shares to be purchased pursuant to the provisions of this Article 8 shall be equal to the Fair Market Value of such Shares at the date that written notice is given by the purchasing Shareholders or the Company, as the case may be, (hereinafter referred to as the “**Purchaser**”), of their/its intention to purchase the Shares of the Seller. If the Purchaser and the Seller are unable to agree within a period of 14 days following the expiry of the Option Period, or the Subsequent Option Period if there is one, as to the Fair Market Value of the Shares to be purchased, such determination shall be made by the auditors of the Company (the “**Auditors**”) within a further 30 day period. The Auditors shall use generally accepted valuation principles and definitions of fair market value, being that highest value at which two unrelated Parties may transact having no compulsion or obligation to do so in a free and open market.

8.4 Additional Valuation - If the Parties do not agree with the valuation made by the Auditors within fifteen (15) days of the receipt of the same, or if such valuation is not provided within the 30 day period referred to in Section 8.3 hereof, then within fifteen (15) days of such date, the Purchaser (acting collectively if there is more than one Purchaser) shall nominate a representative and the Seller shall nominate a representative, and the two representatives so nominated shall nominate a third representative and a majority of the three representatives shall select a qualified appraiser (“**Qualified Appraiser**”) to make the necessary fair market value determination. If either the Seller or the Purchaser fail to appoint their representative within fifteen (15) days, or if the two representatives fail to appoint a third representative within a further ten (10) days, or if the representatives fail to appoint a Qualified Appraiser within a further ten (10) days, then such appointment(s) shall be made by the President of the Institute of Chartered Accountants for England and Wales. The Purchaser and the Seller shall pay for the cost of their own representatives, and the costs of the third representative, The President of the Institute of Chartered Accountants for England and Wales and the Qualified Appraiser shall be borne equally by the Purchaser and by the Seller. For the purposes of this Section, a Qualified Appraiser shall be a North American or international investment bank, investment dealer or financial institution having generally recognized expertise in share valuations.

8.5 Additional Sale Provisions - If at the time of any sale of all or substantially all of the Common Shares of a Shareholder pursuant to this Article 8 or to Article 9 hereof:

- (a) there are any loans outstanding from the Company to the selling Shareholder(s) or vice versa, such loans shall be repaid in full; and
- (b) there are any securities or covenants lodged by the selling Shareholder(s) with any person or institution or any personal guarantees given by the selling Shareholder(s) or his nominee(s) to secure any indebtedness, liability or obligation of the Company, the remaining Parties to this Agreement shall use their best efforts to have the selling

Shareholder(s) and any nominee(s) released therefrom. If, notwithstanding such best efforts, the releases as aforesaid are not obtained, the remaining Parties shall deliver to the selling Shareholder(s) their indemnity in writing indemnifying the selling Shareholder(s) and his nominee(s) from any and all liabilities and obligations thereunder.

8.6 Valuation - In this Article 8, the Auditors and any Qualified Appraiser are referred to as a **"Valuator"**. In conducting any valuation under this Article 8, the Valuator:

- (a) shall be given such access to and copies of such documents as the Valuator shall request;
- (b) shall determine the fair value per share of the Shares as of the appropriate date without taking into account the effect of any of the provisions of this Agreement or any premium for control or discount for minority interest, provided however that if the Investor's interest is being sold to the Government as a result of the Investor's exercise of its put option pursuant to Section 9.1 hereof then the Valuator shall, in preparing its valuation:
 - (i) assume the triggering event(s) under Section 9.2 had not occurred; and
 - (ii) consider any premium for effective board control immediately prior to the triggering event(s);
- (c) shall prepare the valuation in U.S. dollars;
- (d) shall review and may use as a guideline, the valuation, if any, last determined pursuant to the provisions of this Article 8; and
- (e) shall consider any written representations which either the Purchaser or Seller may make.

The valuation determined by the Qualified Appraiser in accordance with this Article 8 shall be binding upon all of the Parties hereto.

8.7 Terms of Sale - Unless other terms of sale are agreed to by the parties to the sale, the terms of any sale under this Article 8 shall be as follows:

- (a) a minimum of fifty per cent (50%) of the total purchase price shall be paid in United States dollars at the time of closing (the "Time of Closing") by certified cheque against delivery of the relevant share certificates and a share transfer form signed in blank with signatures guaranteed;

- (b) the Purchaser shall execute and deliver to the Seller a United States dollar denominated promissory note in an amount equal to the unpaid balance of the purchase price at the Time of Closing and the unpaid balance, if any, from time to time outstanding of the purchase price shall bear interest from the time of closing at a rate per annum equal to the prime lending rate charged for loans in United States dollars in Guyana by Bank of Nova Scotia in Guyana, plus one per cent (1%), and such principal and interest shall be paid in two (2) equal annual consecutive instalments with the first instalment to be paid one (1) year from the Time of Closing and the second instalment one (1) year thereafter (in the event that the Bank of Nova Scotia does not have an office in Guyana at the time, the prime lending rate for loans in United States dollars in Guyana of another prominent Canadian, United States or International bank or other bank selected by the Parties with an office in Guyana shall be utilized in the above calculation.);
- (c) default of any payment of principal or interest shall, at the option of the holder of the promissory note, cause the entire balance thereof to mature, provided that the Purchaser may prepay the same in whole or in part, in reverse order of maturity, without notice or bonus payments;
- (d) the Time of Closing shall be at 10:00 o'clock a.m. at the registered office of the Company on the 30th day following the receipt of the required appraisal or valuation opinion, as the case may be;
- (e) at the Time of Closing, the Seller shall tender the resignation(s) of its nominee(s) from the Board of Directors and as officer(s) of the Company which shall be accepted by the Board of Directors and which each Shareholder hereby acknowledges shall be a voluntary resignation and, therefore, such Directors and officers shall not be entitled, in their capacity as such, to termination rights or severance pay either at common law or under the laws of Guyana;
- (f) if the Seller refuses or neglects to complete the sale for any reason within the time frame described in the Article, the Purchaser shall have the right, upon payment of the purchase price to the credit of the Seller in any chartered bank in the City of Georgetown for and on behalf of and in the name of the Seller or his nominee or nominees, to execute and deliver such transfers, resignations and other documents as may be necessary or desirable in order to complete the transaction, and to that end the Seller hereby irrevocably constitutes the Purchaser his true and lawful attorney to complete all acts consistent with the transaction and execute on behalf of the Seller every document necessary or desirable in that behalf;
- (g) if, at the Time of Closing, the Seller is indebted to the Company, the Purchaser shall be entitled to pay, satisfy and discharge out of the purchase price all or any portion



of such indebtedness and to receive and to take credit against the purchase price for the amount or amounts so paid;

- (h) at the Time of Closing the Seller shall deliver to the Purchaser a release by each of the Seller and each of its Associates and Affiliates and its nominees or persons related to the Seller employed by the Company, if any, of all of his Claims against the Company with respect to any matter or thing up to and including the Time of Closing in his capacity as a Director, officer or employee of the Company, as the case may be, provided, however, that such release shall not include any indebtedness and or obligation to the Seller arising out of any sale hereunder by the Seller; and
- (i) the provisions of this Article 8 shall, in any event, be subject to the compliance by the Seller with Applicable Law and the obtaining of requisite approvals for transfer thereunder. The Time of Closing shall be extended by the amount of time of any delay or delays occasioned by a regulatory or governmental agency which is required to give approval to a transfer hereunder. In the case of approvals for the transfer of Shares, the Government hereby covenants that any such approvals within its control shall be forthcoming within a reasonable period of time.

ARTICLE 9 - PUT OPTION

9.1 Put Notice - Provided that the Investor is not a Seller under Section 8.1 and subject to the time limits set out below, the Investor may, upon the occurrence of an event outlined in Section 9.2 below, send a notice in writing to the Government which shall be signed by the Investor (the "Put Notice") and which shall be an offer to sell to the Government all but not less than all of the Shares owned by the Investor. The Investor shall specify in the Put Notice the basis for the request under Section 9.2, the terms of the purchase and sale and the price per Share at which the Investor wishes to sell its Shares, which price shall be at Fair Market Value. The Government shall have a period of ninety (90) days following the delivery of the Put Notice to accept or to dispute in writing the Put Notice in accordance with its terms. In the event that no response is received from the Government prior to the expiry of the ninety (90) day period, the Government shall be deemed to have accepted the Put Notice in accordance with its terms. If the Government chooses to dispute the Put Notice, the matter shall be resolved in accordance with the provisions of Article 14.

9.2 Entitlement to Issue Put Notice - The Investor shall only be entitled to issue a Put Notice to the Government under Section 9.1 herein upon the occurrence of any breach or breaches of the Government's covenants pursuant to Section 18.5 herein and the damages to the Company or the Investor resulting from such breaches exceed U.S. \$100,000 in the aggregate.

9.3 Termination of Put Right - The right of the Investor to issue a Put Notice shall cease upon the earlier of the following:

- (a) at the time of the Initial Public Offering if GPL has not exercised its right of set off provided for in Section 10.1 for a period of three years prior to such time; and
- (b) after four and one-half years from the date hereof provided that GPL has not exercised its right of set off provided for in Section 10.1 for a period of three years prior to such time.

9.4 Acceptance of Put Notice - If the Government accepts or is deemed to have accepted the validity of the Put Notice according to its terms, the Government shall purchase within 120 days from the date of delivery of the Put Notice all of the Shares owned by the Investor at the specified price per Share as outlined at Section 9.5 below.

9.5 Terms of Purchase - In the event of any sale of Shares pursuant to the terms of this Article, the Investor shall for the purposes of this Section be referred to as the "Seller" and the Government shall for the purposes of this Section be referred to as the "Purchaser" and the provisions of Sections 8.5 and 8.7 shall apply, mutatis mutandis, subject to the following:

- (a) at the Time of Closing the Seller and any nominees of and persons related to the Seller shall resign from the Board of Directors and from any office or employment with the Company except as otherwise provided in this Agreement; and
- (b) the whole of any amounts payable shall be paid by cash, bank draft or certified cheque at the Time of Closing.

If the Investor exercises its put right under this Article prior to the payment of the entire Subscription Price (as defined in the Share Subscription Agreement), the price to be paid by the Government for the Investor's Shares shall be calculated in accordance with Section 5.9 of the Share Subscription Agreement.

ARTICLE 10 - SET OFF

10.1 Right of Set Off Against the Government - GPL is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply certain amounts, as specified below, at any time owing by GPL to the Government against any and all amounts owing by the Government to GPL under this Agreement or the Supplementary Agreements:

- (i) accounts receivable collected by GPL on behalf of GEC pursuant to the Operating and Agency Agreement;
- (ii) usage fees payable by GPL to GEC pursuant to Section 4 of the Operating and Agency Agreement;

- (iii) interest due on, and amounts owing by GPL in respect of the redemption of, the Debenture held by the Government;
- (iv) dividends payable by GPL to the Government in respect of Common Shares held by it; and
- (v) other amounts payable by GPL to the Government pursuant to this Agreement, the Share Subscription Agreement, the Management Agreement and the Operating and Agency Agreement.

GPL shall provide ten days prior written notice to the Government each time it proposes to use the set-off provided herein.

For greater certainty, the set-off provided for herein shall not be available in respect of taxes which GPL may owe from time to time.

During the effectiveness of this Section 10.1 in accordance with the provisions of Section 10.4 hereof, the right of GPL to set off and apply the amounts specified in (i) through (v) above against any and all amounts owing by the Government to GPL shall extend to damages suffered by GPL due to any breach by the Government of its covenants under Section 18.5 hereof. The procedure for determining whether the Government has breached any such covenant and whether GPL has suffered damages from any such breach shall be as set forth in Section 10.5.

10.2 Right of Set Off Against the Investor - GPL is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply certain amounts, as specified below, at any time owing by GPL to the Investor against any and all amounts owing by the Investor to GPL under this Agreement or the Supplementary Agreements:

- (i) dividends payable by GPL to the Investor in respect of Common Shares held by it and any amounts payable to the Investor pursuant to the assignment by the Government of its right to dividends under the Preference Shares; and
- (ii) other amounts payable by GPL to the Investor pursuant to this Agreement, the Share Subscription Agreement, the Management Agreement and the Operating and Agency Agreement.

GPL shall provide ten days prior written notice to the Investor each time it proposes to use the set-off provided herein.

10.3 Additional Right Re: Certain Government Entities - GPL is hereby authorized at any time and from time to time, to set off and apply certain amounts specified in (i) through (v) below at any time owing by GPL to the Government against any and all amounts that are 30 days in

arrears owing from Guyana Water Authority (and its successors and assigns) and Georgetown Sewerage and Water Commissioners (and its successors and assigns) and Government controlled or funded hospitals and other healthcare facilities to the GPL in respect of electricity and electricity services provided. In the case of all other Government departments and agencies, GPL shall be entitled to cease providing electricity and electricity services in the event of the non-payment of outstanding bills, all in accordance with GPL's standard terms and conditions:

- (i) accounts receivable collected by GPL on behalf of GEC pursuant to the Operating and Agency Agreement;
- (ii) usage fees payable by GPL to GEC pursuant to Section 4 of the Operating and Agency Agreement;
- (iii) interest due on, and amounts owing by GPL in respect of the redemption of, the Debenture held by the Government;
- (iv) dividends payable by GPL to the Government in respect of Common Shares held by it; and
- (v) other amounts payable by GPL to the Government pursuant to this Agreement, the Share Subscription Agreement, the Management Agreement and the Operating and Agency Agreement.

The foregoing right of set off shall only be used by GPL after it has taken all reasonable steps to collect the amount owed by the above noted entities. GPL shall provide ten days prior written notice to the Government each time it proposes to use the set-off provided herein.

For greater certainty, the set-off provided for in this Section shall not be available in respect of taxes which GPL may owe from time to time.

The right of set off in this Section may not be used in respect of amounts owing from any particular entity as referenced in this Section if such entity ceases to be under the control of the Government and such entity provides GPL with reasonable and adequate credit enhancements or security for electricity provided, or unless the Parties otherwise agree.

10.4 Termination of Set Off Right - The right of set off provided in this Article 10 shall cease upon the earlier of the following: (a) at the time of the Initial Public Offering if GPL has not exercised its right of set-off provided for in this Article 10 for a period of three years prior to such time; and (b) after four and one-half years from the date hereof provided that GPL has not exercised its right of set-off under this Article 10 for a period of three years prior to such time.

10.5 Decision Panel for Set-off Relating to Section 18.5 -

- (a) **Notice of Damages.** In the event that GPL believes that there has been a breach of the Government's covenants pursuant to Section 18.5, it shall provide written notice (a "Damages Notice") of the same to the Government specifying the reasons therefor and the estimated amount of damages to GPL resulting from such breach.
- (b) **Disputes.** In the event that the Government delivers a notice to GPL disputing a claim made in a Damages Notice received from GPL within 15 days of receipt of such notice, the Parties shall submit the dispute to a panel of three persons (the "Panel") for resolution in accordance with this Section (the "Expedited Dispute Resolution"). In the event that the Government fails to deliver such a notice within 15 days of receipt of a Damages Notice it shall be deemed to have accepted and agreed with the Damages Notice and GPL shall be entitled to recover the amount of the damages by way of set-off pursuant to Section 10.1. Any Expedited Dispute Resolution shall be held in Washington, D.C. and the Panel shall set its own procedure. Within seven days after the Government has delivered a notice to GPL that it disputes a claim made in the Damages Notice, each of the Government and GPL shall select one member of the Panel which member shall hold internationally recognized legal or financial qualifications, and within seven days after their selection, such two members shall select a third member, who shall be a partner in one of the United States, Canadian or British offices of Arthur Andersen, KPMG or Ernst & Young (or any successor firm to any of the foregoing). In the event that either the two members cannot agree on the selection of a third member within the said seven day period or if one Party fails to select its representative member within the said seven day period, the third member or the Party's representative member shall be selected by the President of the Institute for Chartered Accountants for England and Wales within a further seven day period.
- (c) **Panel Decision.** The Panel shall determine, within 30 days of the selection of all three members of the Panel, whether there has been a breach of the Government's covenants pursuant to Section 18.5, and if so the amount of the damages to GPL resulting from such breach. If the Panel determines that there has been a breach and that there are damages to GPL resulting therefrom, the Panel shall issue a certificate to the Government and GPL to that effect, and GPL shall be entitled to recover the amount of the damages from the Government by way of set-off pursuant to Section 10.1.
- (d) **Access to Information.** In any Expedited Dispute Resolution pursuant to this provision, GPL shall provide the Government and its advisors for the Expedited Dispute Resolution with such access to information in the books and records of GPL as is reasonably necessary for the Government to prepare and present its case to the

Panel within the time limitations for the Panel's decision under paragraph (c) above. If GPL fails to provide the Government with such access, the Panel shall extend the 30-day period for rendering its decision accordingly. The right of GPL to make claims for breaches of Section 18.5 hereof shall be limited to the set-off procedure provided for in Section 10.1 and shall terminate simultaneously with the termination of GPL's rights of set-off under Section 10.1 in accordance with the provisions of Section 10.4.

- (e) Full Arbitration. Either Party may dispute the findings of the Panel by filing a demand for arbitration pursuant to Article 14 hereof requesting a de novo determination of whether there has been a breach or damages. Such demand for arbitration must be filed by one Party on the other Party within 30 days of the Panel's decision. During the course of any such arbitration, the decision of the Panel shall remain in effect.

ARTICLE 11 - RIGHT OF FIRST REFUSAL

11.1 Terms of Refusal Right - No Shareholder shall entertain offers for the purchase of its Shares nor make agreements for the sale, transfer or assignment of its Shares except as provided in Articles 8 or 9, or except upon compliance with this Article 11 and subject to the terms and conditions hereinafter set forth:

- (a) Either Shareholder (hereinafter in this Article 11 referred to as the "Offeror") which desires to sell all or any of its Shares shall give notice of such proposed sale (hereinafter in this Article 11 referred to as the "Notice") to the Company and to the other Shareholder and shall set out in the Notice the number of the Shares that it desires to sell (hereinafter in this Article 11 referred to as the "Offered Shares") and the terms upon which and the price at which it desires to sell the Offered Shares (such price being hereinafter in this Article 11 referred to as the "Purchase Price");
- (b) Upon the Notice being given, the other Shareholder (hereinafter in this Article 11 referred to as the "Offeree") shall have the right to purchase all, but not less than all, of the Offered Shares for the Purchase Price and on such specified terms;
- (c) Within 30 Business Days of having been given the Notice, if the Offeree desires to purchase the Offered Shares, it shall give notice to the Offeror and to the Company;
- (d) If the Offeror makes default in transferring the Offered Shares to the Offeree in accordance with the terms set out in the Notice, the Secretary of the Company is authorized and directed to receive the purchase money and to thereupon cause the name of the Offeree to be entered in the registers of the Company as the holder of the Shares purchasable by it. The said purchase money shall be held in trust by the Company on behalf of the Offeror and not commingled with the Company's assets,

except that any interest thereon shall be for the account of the Company. The receipt by the Secretary of the Company for the purchase money shall be a good discharge to the Offeree and, after its name has been entered in the registers of the Company in exercise of the aforesaid power, the validity of the proceedings shall not be subject to question by any person. On such registration, the Offeror shall cease to have any right to or in respect of the Offered Shares except the right to receive, without interest, the purchase price received by the Secretary of the Company; and

- (e) If the Offeree does not give notice in accordance with the provisions of Section 10(c) that it is willing to purchase all of the Offered Shares, the rights of the Offeree, subject as hereinafter provided, to purchase the Offered Shares shall forthwith cease and determine and the Offeror may sell the Offered Shares to any person within 180 days after the expiry of the 30 Business Day period specified in Section 10(c), for a price not less than the Purchase Price and on other terms no more favourable to such person than those set forth in the Notice, provided that the person to whom its Shares are to be sold agrees prior to such transaction to be bound by this Agreement and to become a Party hereto in place of the Offeror with respect to the Offered Shares. If the Offered Shares are not sold within such 180 day period on such terms, the provisions of this Article 11 shall again take effect and so on from time to time.

11.2 Compliance with Law - The provisions of Section 11.1 shall, in any event, be subject to the compliance by the Offeror and the Third Party with Applicable Law and the obtaining of requisite approvals for transfer thereunder. The time periods referred to in Section 11.1 shall be extended by the amount of time of any delay or delays occasioned by a regulatory or governmental agency which is required to give approval to a transfer thereunder. In the case of approvals for the transfer of Shares, the Government hereby covenants that any such approvals within its control shall be forthcoming within a reasonable period of time.

ARTICLE 12 - SECURITY FOR PURCHASE OF SHARES

12.1 Share Pledge - As security for the unpaid balance, if any, of the purchase price with respect to any purchase and sale of Shares pursuant to this Agreement, the purchasing Shareholder shall pledge the said Shares being the subject matter of such purchase and sale (hereinafter called the "Pledged Shares") to and in favour of the disposing Shareholder, free and clear of any lien, charge or encumbrance of whatsoever nature.

12.2 Pledged Share Certificates - The certificates evidencing the Pledged Shares, as well as share transfer forms signed in blank by the purchasing Shareholder with signature guaranteed at the Time of Closing shall be delivered to the attorneys-at-law for the Company, or to such other persons as the Parties may agree (hereinafter called the "Trustee") to be held in trust as provided herein, together with a certified copy of a resolution of the Board of Directors consenting to the

transfer of the said Shares to the disposing Shareholder pursuant to the provisions of this Article 12. Subject as herein provided, the Trustee shall hold the certificates evidencing the Pledged Shares and the share transfer forms until the purchase price therefor has been paid in full, at which time and upon proof thereof being furnished to the Trustee in the form of a receipt signed by the disposing Shareholder and an affirmative statement of payment signed by the purchasing Shareholder, the Trustee shall deliver the said certificates and share transfer forms to the purchasing Shareholder.

12.3 Changes to Share Structure - If at any time and from time to time during the period that the purchase price remains outstanding:

- (a) any of the said Shares are subdivided, consolidated, changed or reclassified; or
- (b) the Company is reorganized or amalgamated with another company or any other event occurs which results in the substitution or exchange of any of the Shares for, or the conversion of any of the said Shares into, other securities;

the Company, forthwith after the occurrence of any such event shall substitute for the Pledged Shares the resulting shares or other securities. In this connection, share certificates or other evidence of ownership of such resulting shares or other securities in transferable form with signatures guaranteed shall be forthwith deposited with the Trustee against receipt of the said share certificates.

12.4 Retention of Voting Rights - Until such time as the security hereby constituted shall become enforceable, the purchasing Shareholder shall be entitled to and may exercise all voting and other rights attached to the Pledged Shares.

12.5 Restrictions on the Company During Pledge - While any part of the purchase price of any Shares sold pursuant to this Agreement by the disposing Shareholder is unpaid, the purchasing Shareholder, insofar as it is permitted by Applicable Law to do so, covenants and agrees hereby that it will not vote in favour of nor suffer the Company to do any of the following, namely:

- (a) to allot or issue stock, bonds or other corporate securities;
- (b) to incur any obligations or liabilities, (absolute or contingent), except if incurred under contracts or agreements entered into in the ordinary course of business of the Company;
- (c) to purchase or redeem any Shares in the capital stock of the Company;
- (d) to mortgage, pledge or subject to lien, charge or any other encumbrance any assets, tangible or intangible, of the Company except in the ordinary course of business;

- (e) to sell or transfer any assets, cancel any debts or Claims or transact any business except in each case in the ordinary course of the business of the Company;
- (f) to knowingly permit any extraordinary losses or waive any rights of substantial value to the Company;
- (g) to enter into any agreement other than in the ordinary course of business of the Company including, but not limited to, agreements regarding increases in salaries, bonuses, payments, stock options or deferred compensation, provided that increments may be paid to the purchasing Shareholder, by way of increased salary or compensation in an amount which shall not exceed ten per cent (10%) of its previous year's aggregate consideration;
- (h) to grant options, warrants or other rights to acquire Shares of the capital stock of the Company;
- (i) to reorganize the capital structure of the Company;
- (j) to merge, consolidate, amalgamate or sell the business assets or undertakings of the Company unless the disposing Shareholder is supplied with evidence satisfactory to it that any amounts owing to it under this Agreement will be paid in full at the time of closing upon completion of the foregoing events; or
- (k) any other matter which could unreasonably diminish the value of such Shares to the disposing Shareholder.

12.6 **Default or Partial Payment -**

- (a) Default of Payment - In the event that the purchasing Shareholder defaults in payment of the purchase price or the interest thereon or upon the breach of any of the covenants set forth in Section 12.5 hereof, the disposing Shareholder may give notice thereof to the Trustee who shall forthwith give notice to the purchasing Shareholder of such default or breach. If payment of the amount owing by the purchasing Shareholder to the disposing Shareholder is not made or such breach is not cured by the purchasing Shareholder within forty-five (45) days of receiving notice thereof from the Trustee, the balance of the moneys then remaining unpaid on account of the purchase price shall immediately become due and payable. If the purchasing Shareholder fails to pay the balance of the moneys remaining unpaid within thirty (30) days following such balance becoming due and payable as aforesaid, the disposing Shareholder shall have the right to realize upon the said Shares by way of a sale thereof as herein provided or, if the purchasing Shareholder has not paid at least seventy-five per cent (75%) of the purchase price therefor, the disposing Shareholder

shall alternatively have the right to take delivery of the certificates evidencing the Pledged Shares from the Trustee as herein provided and continue to hold and own the same as if such Shares had never been sold by it and the provisions of this Agreement shall continue to govern the rights of the Shareholders with respect to the disposition of their Shares.

- (b) Partial Payment - If less than seventy-five per cent (75%) of the purchase price for the Pledged Shares has been paid by the purchasing Shareholder, the disposing Shareholder shall notify the Trustee within thirty (30) days of the expiry of the aforesaid forty-five (45) day notice period as to whether it intends to realize upon the Pledged Shares by way of a sale thereof or intends to hold same. In the event that the disposing Shareholder fails to give such notice, it shall be deemed to have elected to hold and own the Pledged Shares. The disposing Shareholder shall take delivery of the Pledged Shares for its own account, in full and complete satisfaction of any Claims that it may have against the purchasing Shareholder with respect to the unpaid balance of the purchase price for the Pledged Shares and will not pursue any other remedies available according to Applicable Law. If, however, the disposing Shareholder elects to sell the said Shares as provided herein, such action shall not be deemed to exclude any other remedy which may be available to it under Applicable Law to recover the moneys and interest thereon due to it under this Agreement.

12.7 Sale of Pledged Shares - If the disposing Shareholder elects to realize upon the Pledged Shares by way of a sale, the following provisions shall apply

- (a) any such sale shall be on the best terms which, after making reasonable effort, the disposing Shareholder is able to obtain; provided, however, that the purchasing Shareholder shall be given the opportunity to obtain an offer for the purchase of the Pledged Shares and if a bona fide offer is obtained by the purchasing Shareholder which provides for better terms, including the payment of the purchase moneys in full by cash or certified cheque, then the offer obtained by the purchasing Shareholder shall be used for such realization;
- (b) the disposing Shareholder may, at its option, purchase the said Shares on the same terms and conditions as the best offer obtained by either the purchasing or disposing Shareholder as provided above; and
- (c) after deducting from the proceeds of any such sale reasonable allowance for all costs, charges and expenses reasonably incurred by the disposing Shareholder in connection therewith, the residue of the monies arising from such sale shall be applied on account of or in payment of the balance of the moneys and accrued interest thereon then remaining unpaid on account of the purchase price and if any surplus remains the same shall be paid forthwith to the purchasing Shareholder.

ARTICLE 13 - CONFIDENTIALITY AND NON-COMPETITION

13.1 Confidentiality - The Parties acknowledge hereby that it is essential to the success of the Company that the business and affairs of the Company be kept in the strictest confidence. Each Party shall keep all information pertaining to or concerning the Company (other than as hereinafter provided) in the strictest confidence and not disclose any such information to a third person other than:

- (a) an Affiliate or Associate of the Party where it is necessary for the purposes of the Company that such Affiliate or Associate receive the information and provided that the recipient Affiliate or Associate enters into an agreement with the Company under which such Affiliate or Associate agrees not to use such information for any purpose other than those of the Company and to be bound by the provisions of this Section 13.1;
- (b) a governmental or other authority to which the disclosure is required by law and where there is no reasonable means to avoid such disclosure;
- (c) a court or Arbitral Tribunal determining the rights of the Parties under this Agreement; or
- (d) where such information has been made public by another Party or is otherwise within the public domain at the time of its disclosure.

13.2 Public Disclosure - It is recognised that from time to time either or both Parties may be required or may wish to disclose information to the public relating to this Agreement, the Supplementary Agreements or the Business. The Parties agree that any such disclosure shall require the prior consent of both Parties, such consent not to be unreasonably withheld. The Parties also agree to develop and implement a protocol for the disclosure of information pertaining to the Business, so as to facilitate a rapid and unified approach to issues of public importance. Notwithstanding the foregoing, the Parties agree that the Government and the Investor may be obligated to respond to requests for information regarding this Agreement, the Supplementary Agreements and the Business on an ongoing basis and this Section shall not prevent the Government or the Investor from responding to such requests for information, provided such responses are consistent with public disclosures previously agreed to in accordance with this Section.

13.3 Survival of Obligations - The confidentiality provisions of this Article shall survive the termination for any reason of this Agreement for a period of three (3) years.

13.4 Restricted Activities

- (a) The Investor covenants and agrees with the Government and GPL that during the term commencing on the date hereof and until the expiry of three (3) years from the date upon which the Investor shall cease to be a Shareholder, the Investor and its Affiliates and Associates shall not directly or indirectly, either alone or in partnership or in conjunction with any persons, as principal, agent, shareholder or in any manner whatsoever, carry on or be engaged in or be concerned with or interested in, or advise, lend money to, guarantee the debts or obligations of, or permit its name or any part thereof to be used or employed by any person engaged in or concerned with or interested in any business activity similar to or competitive with the Business carried on by the Company at the time the Investor ceased to be a Shareholder, within the territorial jurisdiction of Guyana; except that the Investor and its Affiliates and Associates may:
- (i) undertake independent power projects only with the approval of (x) a two-thirds (2/3) majority of the Board of Directors, (y) the Minister responsible and (z) the Public Utilities Commission;
 - (ii) enter into a related-party contract valued at less than US\$500,000 only with the approval of a two-thirds (2/3) majority of the Board of Directors; and
 - (iii) enter into a contract valued at more than US\$500,000 or which has a term of more than ten years only after an open, transparent and competitive bidding process and with the approval of a two-thirds (2/3) majority of the Board of Directors.
- (b) Each of the restrictions in Section 13.2(a) are acknowledged by each Shareholder to be separate, distinct and severable covenants and to be reasonable and valid and all defenses to the strict enforcement thereof by each other party hereto are hereby waived by each Shareholder.

13.5 **Permitted Activities** - Nothing in Section 13.2(a) shall operate to prevent a Shareholder or the Company or an Affiliate or Associate of any of them from:

- (a) owning in the aggregate not more than ten per cent (10%) of the outstanding shares of any corporation, the shares of which are listed for trading on any stock exchange or which trade on the over-the-counter market, provided that such shareholding does not constitute *de facto* control of such corporation; or

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- (b) acquiring any business (whether by the purchase of shares, assets or otherwise) for *bona fide* commercial reasons where an incidental part of such business would otherwise be prohibited by Section 13.2(a), provided that the Shareholder or the Company or Affiliate or Associate, as the case may be, uses his best efforts to divest himself upon reasonable terms and with all reasonable speed of such incidental part.

ARTICLE 14 - ARBITRATION

14.1 Negotiation at First Instance - In the event that any dispute arises between any of the Parties under this Agreement (the “Dispute”), then the Parties to such Dispute shall each appoint persons who shall be designated with authority to negotiate on that Party’s behalf, and to conduct such negotiations toward resolving the Dispute in good faith for a period not to exceed sixty (60) days.

14.2 ICSID or UNCITRAL Arbitration - If the Dispute is not resolved as contemplated under Section 14.1 hereof, the Parties hereby consent to submit any Dispute to which the Government is a party and, if applicable, which involves the Share Subscription Agreement, to the Centre for settlement by arbitration pursuant to:

- (a) the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the “Convention”); or
- (b) the Arbitration (Additional Facility) Rules of the Centre if the jurisdictional requirements of the Convention are unfulfilled.

The Parties hereby consent to submit all other Disputes to be settled by arbitration according to the UNCITRAL Arbitration Rules (the “UNCITRAL Rules”).

14.3 Nature of Transaction - The Parties agree that the transaction to which this Agreement relates is an investment, for the purposes of a Dispute being referred to the Centre for arbitration.

14.4 Constitution of Tribunal - Any arbitral tribunal constituted pursuant to this Agreement (the “Arbitral Tribunal”) shall consist of three arbitrators, one appointed by each Party to the Dispute, and an arbitrator, who shall be President of the Arbitral Tribunal, appointed by agreement of the Parties, or failing such agreement, according to the Convention or the UNCITRAL Rules, as the case may be. In the event the Dispute involves more than two Parties, each Party shall appoint an arbitrator, and jointly appoint an additional arbitrator who shall be President of the Arbitral Tribunal. Failing such joint appointment, the President shall be appointed according to the Convention or the UNCITRAL Rules, as the case may be. A decision of a majority of the members of the Arbitral Tribunal is required to resolve a dispute involving more than two Parties. In the event

the Arbitral Tribunal is unable to reach such a consensus, the president of the Arbitral Tribunal shall appoint an additional arbitrator, who, after a consideration of the Dispute and the evidence and submissions of the Parties, shall cast the deciding vote on the Dispute.

14.5 Application of Laws of Guyana - Any Arbitral Tribunal constituted pursuant to this Agreement shall in all circumstances apply the Constitution and laws of Guyana, other than the laws of Guyana relating to arbitration, except to the extent that said Constitution or laws may materially breach, materially deny, or materially diminish:

- (a) the obligations of the Government under this Agreement and the Supplementary Agreements, including without limitation the covenants of the Government pursuant to Section 18.5 hereof; or
- (b) the rights of GPL or the Investor under this Agreement or the Supplementary Agreements.

14.6 Provisional Measures - Without prejudice to the power of the Arbitral Tribunal to recommend provisional measures, either Party hereto may request any judicial authority in Guyana to order any provisional or conservatory measure, including attachment, prior to the institution of arbitration proceedings, or during the proceeding, for the preservation of its rights or interests.

14.7 Arbitration Rules, Consolidation - Any arbitration proceeding pursuant to this Agreement shall be conducted in accordance with the Arbitration Rules of the Centre in effect on the date on which the proceeding is instituted, or if under Article 14.2 the Dispute is to be settled through UNCITRAL arbitration, in accordance with the UNCITRAL Rules. The Parties agree that any Dispute may be consolidated by the arbitrators and heard together with any arbitration that may arise under the Supplementary Agreements under the rules of the Centre or UNCITRAL, as the case may be, if the arbitrators are of the opinion that such consolidation would be appropriate and in the best interests of all of the parties.

14.8 Place of Arbitration - The Parties hereto hereby agree that any arbitration proceeding conducted pursuant to this Agreement shall be held at Washington, D.C.

14.9 Capacity - The Government hereby expressly represents and warrants that it has signed and ratified all treaties, conventions and other documents necessary to give full effect to the submission to arbitration set forth in Section 14.2 and that such submission is binding and enforceable against the Government.

14.10 Sovereign Immunity - The Government hereby expressly and irrevocably waives the right to any claim for sovereign immunity against jurisdiction, enforcement and execution of any arbitral award or any judgment thereon in any court.

14.11 Binding Effect - The Parties hereto consent and agree that any such award, in the absence of fraud or manifest error, shall be final and binding and that any such award or judgment thereon, if unsatisfied, shall be enforceable in the courts of any nation according to its laws.

14.12 Submission to ICSID - The Parties agree to submit a copy of this Article to the Secretary-General of the Centre within thirty (30) days of the date of this Agreement for the purpose of obtaining the approval of the Secretary-General pursuant to Article 4 of the Additional Facility Rules of the Centre. The Parties agree to cooperate with one another to obtain the approval of the Secretary-General.

14.13 Exemption from Arbitration Act (Guyana) - For greater certainty, but not so as to restrict the generality of the foregoing, it is hereby expressly agreed that the first schedule to the Arbitration Act (Guyana), Cap.7:03 of the laws of Guyana, shall not apply to a submission to arbitration under this Article.

ARTICLE 15 - DIVIDEND POLICY

15.1 Solvency - The Board of Directors may, in accordance with the Act, propose and the Shareholders shall approve by ordinary resolution, dividends on any class of Shares of the Company, other than the Special Share, subject only to the following provisions

- (a) There are no reasonable grounds for believing that:
 - (i) the Company is, or would after the payment be, unable to pay its liabilities as they become due; or
 - (ii) the realizable value of the Company's assets would thereby be less than the aggregate of its liabilities and stated capital;
- (b) Subject to the other provisions of this Section 15.1 and to Section 15.3 hereof, the Board of Directors shall propose dividends, at any time and from time to time, up to the greater of (i) the entire amount of retained earnings of the Company and (ii) profits of the Company (such greater amount is referred to herein as the "Available Funds") in accordance with the policy set out in this Article.
- (c) Dividends, if any, on the Common Shares, Class A Preference Shares and Class B Preference Shares may be declared and paid semi-annually with the interim dividend limited to a maximum of seventy-five percent (75%) of the estimated distributable income for that six month period and the final dividend shall be declared and paid annually upon the completion of the Company's financial statements for the fiscal year.

15.2 Shareholders' and Directors' Support - The Shareholders hereby consent, and agree to cause their nominee Directors to propose and declare dividends and redemptions in accordance with this Article and the Shareholders also agree to declare, approve and ratify the same.

15.3 Additional Restriction - Notwithstanding any of the provisions of this Article, dividends on any class of Shares of the Company shall only be declared and Preference Shares shall only be called for redemption by the Board of Directors after taking into consideration the growth and sustainability of the Company, including the Company's cash flow, earnings, financial position and debt retirement obligations, except that Class B Preference Shares shall be redeemed for debt pursuant to their terms with no reduction in profits or retained earnings available for the payment of dividends or the redemption of any other Shares of the Company.

15.4 Parity of Common Shares - The Shareholders acknowledge and agree that the Common Shares held by all Shareholders shall be treated equally for all purposes including, but not limited to, the payment of any dividends.

15.5 Class A Preference Shares and Class B Preference Shares - As set forth in the share conditions contained in the Company's Articles of Incorporation,

- (a) 20% Dividend - The Class A Preference Shares and Class B Preference Shares shall be entitled to a 20% cumulative preferred dividend;
- (b) Assignment of Dividend Payments - The Government hereby assigns to the Investor all dividend payments to which it would otherwise be entitled accruing up to that date which is five years from the date hereof on its Class A Preference Shares and its Class B Preference Shares issued to the Government on the date hereof;
- (c) Conversion of Class A Preference Shares to Common Shares - On that date which is five years from the date hereof, all Class A Preference Shares shall automatically and permanently convert to Common Shares; and
- (d) Redemption of Class B Preference Shares with the Debenture - On that date which is five years from the date hereof, all Class B Preference Shares shall be automatically redeemed through the issuance of the Debenture, which shall be redeemed over a 10-year period in 10 equal annual instalments payable on the first day of each year commencing on the first anniversary of the date of redemption of the Class B Preference Shares. The Parties agree that no payment of interest on the Debenture or no payment in respect of the redemption or partial redemption of the Debenture shall be made until all outstanding cumulative preferred dividends are paid on the Class A Preference Shares and Class B Preference Shares.

ARTICLE 16 - TAXATION**16.1 Taxation of GPL - The Government covenants that**

- (a) GPL shall be liable to corporation tax at a rate not to exceed 35% of chargeable profits, and that GPL shall be entitled to utilize all allowances, tax losses and other deductions authorised under the Corporations Tax Act Cap 81:03 in effect on April 9, 1998 and any other allowance, loss or other deduction which may subsequently be authorised;
- (b) GPL shall be liable to property tax at a rate not to exceed the rate in effect in Guyana on April 9, 1998;
- (c) GPL shall not be liable for income tax, minimum tax, withholding tax, customs or import duties;
- (d) GPL shall not be liable for stamp taxes or other similar taxes, process fees, levies or charges, on transfers of property by the Government to GPL, or on the formation of GPL;
- (e) there shall be no restrictions on the deductibility of management fees paid by GPL for corporation tax purposes;
- (f) subject to paragraph (g) below GPL shall not be liable to consumption taxes;
- (g) GPL shall not be liable for fuel taxes until five years after the date hereof, and thereafter at a rate not to exceed 10%.

16.2 Taxation of the Investor - The Government covenants that the Investor shall not be liable in Guyana to

- (a) consumption taxes;
- (b) stamp taxes;
- (c) withholding taxes;
- (d) capital gains tax;
- (e) capital (property) tax or income or corporation tax of any kind on payment or receipt of dividends (including any assignment of dividends) or management fees; or

(f) taxes of any kind on transfer or issue to the Investor of any Shares, or upon the redemption of any of its Shares, or upon the transfer or sale of any of its Shares;

The Government further covenants that the Investor shall not be liable for any restrictions which are or may be placed upon the repatriation of capital outside of Guyana.

16.3 Taxation of the Subcontractor - The Government covenants that with respect to the payment or receipt of fees under the subcontract the Subcontractor shall not be liable in Guyana to

- (a) consumption taxes;
- (b) stamp taxes;
- (c) withholding taxes;
- (d) capital gains tax;
- (e) capital (property) tax or income or corporation tax of any kind.

The Government further covenants that the Subcontractor shall not be liable for any restrictions which are or may be placed upon the repatriation of capital outside of Guyana.

16.4 Taxation of Expatriates - The Government covenants that expatriates hired or retained by the Investor, the Subcontractor or GPL for purposes of fulfilling the Manager's obligations under the Management Agreement and the Subcontractor's obligations under the Subcontract and the Direct Deed will be subject to tax pursuant to the laws of Guyana, except that such expatriates shall be permitted the unrestrained and duty free importation and exportation of household goods and personal effects, including reasonable vehicles, on a one time basis, per expatriate, provided that such goods and effects are not sold in Guyana within two years of their date of importation and that such expatriates will be permitted to shop at the diplomatic store.

16.5 Further Approvals - The Government covenants that it shall obtain and deliver whatever further orders, approvals, letters of support or other instruments as are necessary to make the foregoing covenants effective, binding and enforceable. The Government shall not impose arbitrary or discriminatory income or property taxes on GPL, the Investor or the Subcontractor or expatriates hired or retained by the Investor or the Subcontractor in Guyana. In order to facilitate the importation of any goods and services used in the operations of GPL, the Government will provide all necessary import approvals, including permits for immediate delivery and Secretary to the Treasury letters.

16.5 Tax Comfort

- (a) The Government covenants that it will remit to GPL an amount equal to any additional taxes payable by GPL as a result of the following circumstances:
- (i) any future funding by the Government of any pension plan of the Company being deemed to be income for tax purposes;
 - (ii) any assignment or waiver of dividends by the Government being deemed to be income for tax purposes;
 - (iii) any dealings with GEC whereby any assets, properties or facilities of GEC are leased or borrowed by the Company for nominal or below market consideration;
 - (iv) the non-interest bearing nature of the Promissory Note;
 - (v) the exchange of the Government's Class B Preference Shares into the Debenture;
 - (vi) except with respect to such amounts that would otherwise be included in the income of the Company in the normal course of business, any adjustments at Closing or following Closing under this Agreement or the Supplementary Agreements, including, but not limited to, settlement or set-off of accounts payable, accounts receivable, future revenues and inventories with the Government or any Government-controlled entity, being treated as income for tax purposes or having any other detrimental tax consequences to the Company;
 - (vi) as a result of any liability to tax on the part of GPL, except as expressly agreed in this Article, including any reduction in the tax value of the assets of GPL as set out in the balance sheet contained in the Guyana Electricity Corporation (Transfer of Undertaking) Order 1999 issued under Section 42(4) of the ESRA.
- (b) The Government further covenants that it will remit to the Investor or the Subcontractor as the case may be an amount equal to any additional taxes payable by the Investor or Subcontractor as a result of any liability to tax on the part of the Investor or the Subcontractor, except as expressly agreed in this Article.
- (c) The Government covenants that in the event that GPL, the Investor or the Subcontractor becomes liable to tax other than as expressly authorised under this

section, the Government will immediately take such steps as may be necessary, including the introduction of new legislation to ensure that the Government is not in breach of its obligations under this Agreement

- (d) Any amounts owing by the Government or the Inland Revenue Department to GPL pursuant to this Section shall bear interest at a rate of 2% per month.

16.6 Tax Warranties - The Government hereby represents and warrants to GPL, the Investor and the Subcontractor, and acknowledges that GPL, the Investor and the Subcontractor are relying upon such representations and warranties that:

- (a) for the purposes of corporation and other taxes, GPL is not a commercial company;
- (b) GPL is liable to corporation tax at a maximum rate of 35% and is not liable to any minimum tax;
- (c) GPL is duly incorporated and all taxes, duties and other statutory fees due and payable by GPL have been remitted or, to the extent not remitted, fully paid up.

ARTICLE 17 - ENVIRONMENTAL ISSUES

17.1 Environmental Assessment of its Operations and Assets - Within 270 days after the Closing Date, by retaining an independent third party expert at GPL's own expense, which expert shall be acceptable to the Government acting reasonably, GPL shall update the environmental assessment completed in October, 1996, to identify any further existing environmental liabilities with respect to the assets of both GEC and GPL arising or which have arisen through the acts or omissions of GEC or its predecessors prior to the Closing Date.

17.2 Assumption of Environmental Liabilities - Any environmental liability which relates to the acts or omissions of GEC or its predecessors prior to the Closing Date, whether known or unknown, or whether identified or not identified in the environmental assessment conducted pursuant to Section 17.1, shall be borne by the Government and, if related to assets then owned by GPL and subject to any Applicable Law, shall be remediated by GPL, at the expense of the Government, in the normal course of its operations. All costs of remediating such environmental liabilities shall be borne by the Government and paid to GPL. For greater certainty, the Government shall be entitled to waive compliance by GPL with any environmental Applicable Law and, if in so doing, GPL is not obligated under such law to effect any repair, reclamation or other remedial action, the Government shall not have any liability in respect of such environmental matter, to the extent of any such waiver. In the event that this waiver results in the GPL being unable to raise debt financing without incurring material additional expense, the Government shall either (a) not be entitled to waive compliance and shall promptly provide satisfactory funding to effect any required repair, reclamation or other



remedial action or (b) shall otherwise compensate GPL for any incremental costs of obtaining the debt financing resulting from such waiver.

17.3 Recovery Through Tariffs - Decommissioning and environmental costs shall be provided for where necessary and to the agreed limits set forth in Part E, paragraph (D) of the Licence and shall be accounted for in accordance with Accepted Accounting Principles. The carrying value of the assets as at the Closing Date, or the assets acquired or disposed of thereafter, shall be adjusted to take account of the actual costs or an estimate of the likely costs, as the case may be, of decommissioning of those assets, including environmental rehabilitation. Such adjustments and any associated depreciation charges shall be included in the Company's operating expenses and asset values for the purposes of calculating tariffs, consistent with, and as more fully provided for in the Licence.

17.4 Environmental Compliance and Liability - GPL shall comply with all environmental Applicable Law. Any environmental liability of GPL which arises due to any act or omission of GPL after the Closing Date shall be a liability of GPL, and any expenses relating to environmental repair, reclamation or other remedial action, and associated costs relating to such environmental liability, shall be the responsibility of GPL.

ARTICLE 18 - GENERAL

18.1 No Waiver - No consent or waiver, expressed or implied, by any Party hereto of any breach or default by any other Party hereto in the performance of his obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other Party of the same or any other obligations of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by the first mentioned Party of his rights hereunder.

18.2 Further Assurances - The Shareholders and the Company agree to sign all such documents and do all such things as may be necessary or desirable (including causing the shares held by such Shareholder to be voted, whether at a meeting of Shareholders or by way of resolution in writing) to carry out the terms and intentions of this Agreement more completely and effectively and to cause the Company to act in the manner contemplated by this Agreement. Each Shareholder shall ensure that his nominees, if any, on the Board of Directors of the Company acts in such a manner as to give effect to the provisions of this Agreement. If a Shareholder's nominee fails to act in such manner as to give effect to the provisions of this Agreement, such Shareholder shall cooperate in taking all such actions as may be necessary from time to time to remove any such nominee from the Board of Directors. Each Shareholder shall and does hereby give all consents, and shall cause his nominee Directors, if any, to give such consents, if any, which may be necessary for the purpose of effecting any transfer of any Share of the Company which is required or permitted by this Agreement.



18.3 The Investor's Representations and Warranties - The Investor hereby represents and warrants to the Government and acknowledges that the Government is relying upon such representations and warranties:

- (a) that it has been duly incorporated and is validly subsisting as a corporation in good standing under the laws of its jurisdiction of incorporation and is duly licensed and qualified in all jurisdictions wherein the nature of its assets or the business transacted by it makes such licensing or qualification necessary;
- (b) that it has the corporate power to own its assets, carry on its business as conducted as of the date hereof and to enter into and perform its obligations under this Agreement;
- (c) it has duly obtained all corporate and regulatory authorizations for the execution, delivery and performance of this Agreement;
- (d) that this Agreement has been duly authorized, executed and delivered by it and constitutes a valid and binding obligation enforceable against it in accordance with its terms;
- (e) that the execution, delivery and performance of this Agreement does not violate any provisions of any indenture, agreement or other instrument to which it is a party or by which it is bound or be in conflict with, result in a breach of, or constitute a default under any such indenture, agreement or other instrument or, except as provided for herein, result in the creation or imposition of a lien, charge or encumbrance of any nature whatsoever upon any of its property or assets;
- (f) that there are no suits or proceedings pending, or to its knowledge threatened, in any court or before any regulatory commission, board or other administrative governmental agency against or affecting it which will have a material adverse effect on its financial condition or business; and
- (g) it has not committed any act of bankruptcy, is not insolvent, has not proposed a compromising arrangement to its creditors generally, has not had any encumbrancer take possession of any of its property and has not had any execution or distress become enforceable upon any of its property.

18.4 Government Representations and Warranties - The Government hereby represents and warrants to the Investor and acknowledges that the Investor is relying upon such representations and warranties:

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- (a) it has duly obtained all such authorizations as may be necessary for the execution, delivery and performance of this Agreement;
- (b) that this Agreement has been duly authorized, executed and delivered by it and constitutes a valid and binding obligation enforceable against it in accordance with its terms; and
- (c) that the execution, delivery and performance of this Agreement does not violate any provisions of any indenture, agreement or other instrument to which it is a party or by which it is bound or be in conflict with, result in a breach of, or constitute a default under any such indenture, agreement or other instrument;

18.5 Covenants of the Government - The Government hereby covenants to the Investor:

- (a) that the Government of Guyana shall not cause the State of Guyana to expropriate or nationalize, or permit or cause the expropriation or nationalization of, any property, right or interest whatsoever of the Company or the Investor, including, without limitation, all or any part of the assets of the Business or any of the Shares held by the Investor;
- (b) that the Government will not take, and will not allow any government department, agency or body corporate controlled by the Government to take, any action (including, without limitation, the passage of any new law or regulation) which would (i) materially diminish the value of, or materially impair or adversely affect the operation of the Business or the value of the Shares, in a manner or to an extent which is materially different than the effect of such action on other businesses or shares generally in Guyana, or (ii) annul, amend, revoke or modify the provisions of, or prevent, hinder or interfere with the due and effective performance of the terms of this Agreement or the Management Agreement, or (iii) impose residency requirements on the Directors of the Board of the Company;
- (c) if the rights of the Company or the Investor under this Agreement or the Supplementary Agreements are materially breached, materially denied or materially diminished by the action or inaction of any person or persons in Guyana through a breach of Applicable Law, the Government will take all reasonable actions to obtain the compliance of such person or persons with such laws;
- (d) that, subject to the existing Letter of Intent between the Government and Tumatumari Hydropower, Inc., dated March 5, 1998 relating to the development of the Tumatumari hydro-electric station and the Memorandum of Understanding among the Government, Synergy Holdings, Inc. of Guyana, Synergy Holdings, Inc. of the USA, and Harza International Development Company, LLC, dated April 24, 1998, relating

to the development of the Amaila Falls hydro-electric project, GPL will have an equal opportunity to compete for the development of new hydro-electric power projects throughout Guyana pursuant to the provisions of the Hydro-Electric Power Act.

18.6 Covenants of the Shareholders - The Shareholders each hereby covenant with each and every other Shareholder:

- (a) that it shall use its best efforts to perform all of its covenants contained herein;
- (b) that it shall notify the other Shareholders forthwith upon the occurrence of any event which would or might cause the breach of any covenant;
- (c) each Shareholder will vote at all meetings of the Shareholders and do all other acts as may be required to ensure that the individuals who are the nominees of the Shareholders pursuant to this Agreement are elected, appointed, maintained in place and removed from time to time as Directors in accordance with the wishes of the nominating Shareholder; and
- (d) not to invoke the remedies that may from time to time be available to it, or make any claims, pursuant to the following provisions of the Act: (i) Division L (Sections 221 to 232), (ii) Sections 496 to 505 and (iii) Part IV of the Fourth Schedule to the Act.

18.7 Region 10 - The Parties agree that it is desirable for Region 10 to be part of GPL's system, and that, consequently they will cause GPL to negotiate in good faith with all necessary third parties to acquire all Region 10 transmission and distribution assets, and to negotiate in good faith a power purchase agreement with Linden Power Company Inc., which negotiations and agreements shall be pursued in accordance with the relevant provisions of the Licence.

18.8 Amendment to Laws - Any reference in this Agreement to any law, regulation or otherwise as amended, repealed or superseded from time to time does not and will not limit, restrict or displace the protections afforded to the Investor by Section 18.5 hereof.

18.9 Employee Share Ownership - The Parties agree that it is desirable for employees of GPL to become shareholders of the Company, and that they will cause GPL to provide for employee equity participation prior to or concurrent with the IPO.

18.10 Notices - Any and all written notice or written communication given or required to be given to a Party hereunder may be delivered, or sent by facsimile transmission, and shall be deemed:

- (a) in the case of delivery to such Party to have been duly given when the same is personally delivered to the Party if an individual, to the Prime Minister of the

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Government at the address of his office in Georgetown, Guyana, if the Party is the Government, or to an officer of the Party if the Party is a corporation;

- (b) if sent by facsimile transmission, to have been duly received on the next business day following such delivery and acknowledgment of receipt by the recipient's facsimile machine or telecopier.

To the Government:

Prime Minister Samuel Hinds
Wright's Lane
Kingston, Georgetown
Guyana
Fax: 592-2-56954/67573

To the Investor:

Americas and Caribbean Power Limited
c/o Craigmuir Chambers, P.O. Box 71
Road Town, Tortola
British Virgin Islands
Attention: Chairman of the Board and Corporate Secretary
Fax: 1-284-494-3547

with copies to:

Managing Director, Investments Group
CDC
One Bessborough Gardens
London SW1V2JQ, United Kingdom
Fax: 44-20-7828-6505

Executive Director
Asset Investment & Facility Management
ESB International
Stephen Courts
18/21 St. Stephens Green
Dublin 2, Ireland
Fax: 353-1-661-0675

To GPL:

At the address of its registered office:
40 Main Street
Georgetown, Demerara,
Guyana
Attention: Chairman of the Board of Directors
Fax: 592-2-71978

with a copy to the Chief Executive,

or at such other address as any of the above parties shall have designated by notice in writing to the other parties.

18.11 Authorized Representative of the Government - For the purposes of any notice, consent, approval or action required from the Government under this Agreement or any Supplementary Agreement, all other Parties to such agreements shall be entitled to rely upon any notice, consent, approval or other action taken or given by the Prime Minister of the Government

18.12 Authorized Representatives of the Investor - For the purposes of any notice, consent, approval or action required from the Investor under this Agreement or any Supplementary Agreement, all other Parties to such agreements shall be entitled to rely upon any notice, consent, approval or other action taken or given by chairman of the board or corporate secretary of the Investor.

18.13 No Joint Venture - Nothing in this Agreement shall be deemed in any way or for any purpose to constitute any Party a partner of, or a member of a joint venture or joint enterprise with, any other Party to this Agreement in the conduct of any business or otherwise.

18.14 Time - Time shall be of the essence of this Agreement.

18.15 Term - The term of this Agreement shall be that period during which any Shareholder or any other Party to this Agreement holds Common Shares, unless otherwise agreed in writing by all of the Shareholders as long as they hold shares, their successors and assigns.

18.16 Entire Agreement - This Agreement, including the schedules hereto, together with the Supplementary Agreements and other agreements or documents to be delivered pursuant to any of the same, constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether written or oral, of the Parties hereto and there are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically

set forth or referred to in any of the same. This Agreement shall not be modified, amended or assigned except with the consent in writing of all of the Parties hereto.

18.17 Proper Law of Agreement - Subject to Article 14, this Agreement shall be governed, construed and interpreted in accordance with the laws of Guyana.

18.18 Gender and Number - In this Agreement, wherever the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the Party or Parties so requires, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.

18.19 Counterparts - This Agreement may be executed by the Parties in counterparts and when all Parties have executed at least as many counterparts as there are Parties, all of such counterparts shall be deemed to be originals and all such counterparts taken together shall constitute one and the same agreement.

18.20 Successors and Assigns - This Agreement shall enure to the benefit of and be binding upon the Parties hereto, successors and permitted assigns and any reference to a right or an obligation of a Party hereto shall be deemed to include a reference to successors and permitted assigns to the extent that the context requires.

18.21 Division, Headings, Index - The division of this Agreement into Articles, Sections and subsections and the insertion of headings and of an index are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. References to Articles, Sections and subsections herein are references to Articles, Sections and subsections of this Agreement unless expressly stated otherwise. The terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer to this Agreement and the schedules hereto and not to any particular Article, Section or other portion hereof.

18.22 Invalidity of Provisions - The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof and any such invalid or unenforceable provision shall be deemed to be severable and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

18.23 Currency - Unless otherwise indicated, all dollar amounts referred to in this Agreement are denominated in the currency of Guyana.

18.24 Tender - Any tender of documents may be made upon the Parties or their respective counsel and money may be tendered by official bank draft or certified cheque drawn upon a major North American chartered bank, an international bank or upon a bank duly licensed and operating in Guyana or by cheque payable in immediately available funds of the United States of America and certified or as the Parties may otherwise agree in writing.

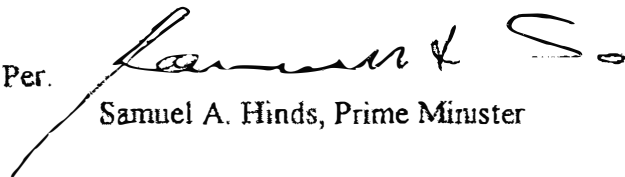
18.25 Language - The Parties agree that all documents evidencing or relating in any way to the purchase and sale of the Subscribed Shares shall be drawn up in the English language only.

18.26 Accounting Terms - All accounting terms not specifically defined herein shall be construed in accordance with Accepted Accounting Principles.

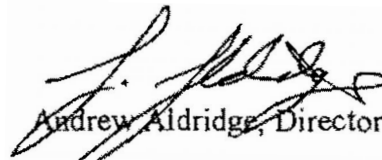
18.27 No Third-Party Beneficiary - The Parties agree that nothing in this Agreement shall create any third-party beneficiary rights for a person.

IN WITNESS WHEREOF the Parties hereto have duly executed this Agreement as of the date and year first above written.

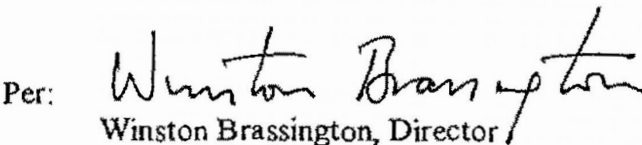
THE COOPERATIVE REPUBLIC OF GUYANA
by the Government of Guyana through its duly
authorized representative

Per: 
Samuel A. Hinds, Prime Minister

**AMERICAS AND CARIBBEAN POWER
LIMITED**


Andrew Aldridge, Director

GUYANA POWER & LIGHT, INC.

Per: 
Winston Brassington, Director



SCHEDULE A - ARTICLES OF THE CORPORATION

CS

FORM 2

4516

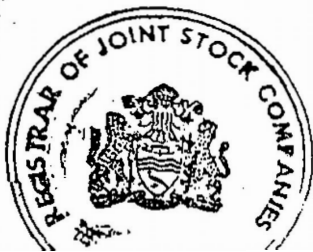
Company No.

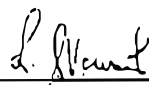
COMPANIES ACT OF GUYANA
(SECTION 8)
CERTIFICATE OF INCORPORATION

GUYANA POWER & LIGHT, INC.

Name of Company

I hereby certify that the abovementioned Company, the Articles of Incorporation of which are attached, was incorporated under the Companies Act of Guyana





Registrar of Companies

COMPANIES ACT, 1991
(Section 5)
ARTICLES OF INCORPORATION

ARTICLE 1.

Name of Company:

Company No: 4516.

Guyana Power & Light, Inc.

ARTICLE 2.

The registered office of the Company is to be situated in Guyana.

ARTICLE 3.

Definitions in these Articles of Incorporation:



(a) "Act" means the Companies Act, No. 29 of 1991, as amended or superceded from time to time, or any replacement or re-enactment thereof;

(b) "Affiliates" means affiliated bodies corporate as is defined in sections 527, 528, 529 and 535 of the Act;

(c) "Company" means Guyana Power & Light, Inc.



(d) "Government" means the Government of the Cooperative Republic of Guyana;

(e) "G\$" means dollars in the lawful currency of the Cooperative Republic of Guyana;

(f) "Licence" means the licence issued to the Company in accordance with the Electricity Sector Reform Act, No. 11 of 1999.

ARTICLE 4.

The classes and the maximum number of shares that the Company is authorized to issue are:

- (a) An unlimited number of Common Shares;
- (b) 12,000,000 Class A Preference Shares;
- (c) 12,000,000 Class B Preference Shares; and
- (d) One Special Share.

ARTICLE 5.

The rights, privileges, restrictions and conditions attaching to each class of shares set forth in Article 4, above, are as follows:

(A) Common Shares

The rights, privileges, restrictions and conditions attaching to the Common Shares are as follows:

- (1) Payment of Dividends: The holders of the Common Shares shall be entitled to receive dividends, as and when recommended by the Board of Directors of the Company and declared by the shareholders of the Company out of the

assets of the Company properly applicable to the payment of dividends in such amount and payable at such times and at such place or places in Guyana as the Board of Directors shall recommend and the shareholders may from time to time determine. Subject to the rights of the holders of the Class A Preference Shares and Class B Preference Shares to receive dividends in priority to the holders of the Common Shares, dividends may be declared on the Common Shares to the exclusion of any other class of shares of the Company. Such dividends shall be payable once a year after the Company has prepared, and the Board of Directors has reviewed, the Company's audited financial statements, except that an interim dividend may be declared six months into the fiscal year up to a maximum of 75% of the Company's earnings for that six month period.

- (2) Participation upon Liquidation, Dissolution or Winding-Up: In the event of the liquidation, dissolution or winding-up of the Company or other distribution of assets of the Company among its shareholders for the purpose of winding-up its affairs, the holders of the Common Shares shall, subject to the rights of the holders of the Class A Preference Shares and the Class B Preference Shares to receive all dividends which shall have accrued with respect to such shares and which shall be treated as accruing to the date of such distribution and the rights of the holders of Common Shares to receive all dividends which have been declared on the Common Shares and subject to the repayment of paid up capital amount of the Class B Preference Shares, be entitled to participate rateably with the Class A Preference Shares in any distribution of the assets of the Company.
- (3) Voting Rights: The holder of Common Shares shall be entitled to receive notice of and to attend all annual and other meetings of the Company and to one vote in respect of each Common Share held at all such meetings.

(B) **Class A Preference Shares**

The rights, privileges, restrictions and conditions attaching to the Class A Preference Shares are as follows:

- (1) Cumulative Dividends: Subject to the rights of the holders of the Class B Preference Shares to receive dividends in priority to the holders of Class A Preference Shares, the holders of the Class A Preference Shares, in priority to holders of Common Shares, shall be entitled to receive and the Company shall pay thereon, as and when recommended by the Board of Directors of the Company and declared by the shareholders of the Company out of the assets of the Company properly applicable to the payment of dividends, fixed preferential cumulative cash dividends at the rate of U.S. \$0.20 per share per annum. Such dividends shall be payable once a year after the Company has prepared, and the Board of Directors has reviewed, the Company's audited financial statements, except that an interim dividend may be declared six months into the fiscal year up to a maximum of 75% of the Company's earnings for that six month period. If on any dividend payment date the dividend payable on such date is not paid in full on all of the Class A Preference Shares then issued, such dividend, or the unpaid part thereof, shall be paid at a subsequent date or dates in priority to dividends on the Common Shares. The holders of the Class A Preference Shares shall not be entitled to any dividends other than or in excess of the preferential cumulative dividends hereinbefore provided.
- (2) Dividends Preferential: Except with the consent in writing of the holders of all the Class A Preference Shares and the Class B Preference Shares, no dividend shall at any time be declared or paid on or set apart for payment on

the Common Shares in any financial year unless and until the accrued preferential dividends on all of the Class A Preference Shares and the Class B Preference Shares have been declared and paid regardless of whether such shares have been converted or redeemed.

- (3) Participation upon Liquidation Dissolution or Winding-Up: In the event of the liquidation, dissolution or winding-up of the Company or other distribution of assets of the Company among its shareholders for the purpose of winding-up its affairs, subject to the rights of the holders of Class B Preference Shares to receive from the Company all dividends which have accrued thereon, the holders of the Class A Preference Shares shall be entitled to receive from the assets of the Company all dividends which shall have accrued thereon and which shall be treated as accruing to the date of such distribution before any other amount shall be paid or assets of the Company distributed, and shall, subject to the rights of the holders of Common Shares to receive declared dividends on the Common Shares and the repayment of the Class B Preference Shares, be entitled to participate ratably with the Common Shares on any remaining distribution of the assets of the Company.



- (4) Non-Voting: The holders of the Class A Preference Shares shall be entitled to receive notice of and to attend all annual and other meetings of the Company but shall not be entitled to vote at any such meeting.

- (5) Conversion to Common Shares: On October 1, 2004, each of the Class A Preference Shares shall automatically convert to one (1) Common Share. On such date of conversion, the Company shall issue certificates representing fully paid Common Shares on the basis above prescribed and in accordance with the provisions hereof to the registered holders of the Class A Preference Shares in exchange for certificates representing such Class A Preference Shares. All Common Shares resulting from the conversion of issued and fully paid Class A Preference Shares pursuant to this Article shall be deemed to be fully paid shares. Any dividends which shall have accrued on the Class A Preference Shares and which shall be treated as accruing to the date of conversion of such shares pursuant to this Article shall be paid before any dividends shall be paid or assets of the Company distributed to the holders of any other class of shares of the Company.



(C) Class B Preference Shares

The rights, privileges, restrictions and conditions attaching to the Class B Preference Shares are as follows:

- (1) Cumulative Dividends: The holders of the Class B Preference Shares, in priority to all other classes of Shares, shall be entitled to receive and the Company shall pay thereon, as and when recommended by the Board of Directors of the Company and declared by the shareholders of the Company, fixed preferential cumulative cash dividends of G\$36 per share per annum. Such dividends shall be payable once a year after the Company has prepared, and the Board of Directors has reviewed, the Company's audited financial statements, except that an interim dividend may be declared six months into the fiscal year up to a maximum of 75% of the Company's earnings for that six month period. If on any dividend payment date the dividend payable on such date is not paid in full on all of the Class B Preference Shares then issued, such dividend, or the unpaid part thereof, shall be paid at a subsequent date or dates in priority to dividends on any other class of Shares. The holders of the Class B Preference Shares shall not be entitled to any

See up

(2) Dividends Preferential: Except with the consent in writing of the holders of all the Class A Preference Shares and the Class B Preference Shares outstanding, no dividend shall at any time be declared or paid on or set apart for payment on the Common Shares in any financial year unless and until the accrued and preferential dividends on all of the Class A Preferential Shares and the Class B Preferential Shares have been declared and paid regardless of whether such shares have been converted or redeemed.



(3) Participation upon Liquidation, Dissolution or Winding-Up: In the event of the liquidation, dissolution or winding-up of the Company or other distribution of assets of the Company among its shareholders for the purpose of winding-up its affairs, the holders of the Class B Preference Shares shall be entitled to receive from the assets of the Company all dividends which shall have accrued thereon and which shall be treated as accruing to the date of such distribution before any other payment to any other class of Shares; and, subject to the rights of the holders of Class A Preference Shares to receive all dividends which have accrued with respect to such shares and which shall be treated as accruing to the date of distribution, and subject to the right of the holders of Common Shares to receive all dividends which have been declared on the Common Shares, shall be entitled to receive repayment of the Class B Preference Shares, which shall be at an amount of G\$180 per share. After payment to the holders of the Class B Preference Shares of the amount so payable to them as above provided they shall not be entitled to share in any further distribution of the assets of the Company.

(4) Non-Voting: The holders of the Class B Preference Shares shall be entitled to receive notice of and to attend all annual and other meetings of the Company but shall not be entitled to vote at any such meeting.



(5) Redemption of Class B Preference Shares by the Company: On October 1, 2004 (the "Redemption Date"), each of such shares shall be automatically redeemed on payment of G\$180 for each Class B Preference Share, such payment to be in the form of a debenture (the "Debenture") issued by the Company in the form attached to these Articles as Schedule "A". On the Redemption Date, the Company shall issue in the name of the registered holder(s) of the Class B Preference Shares to be redeemed, the Debenture at the registered office of the Company, against delivery of the certificate(s) representing the Class B Preference Shares. From and after the Redemption Date, the holder(s) of the Class B Preference Shares shall not be entitled to exercise any of the rights of shareholders in respect thereof other than the right to receive any accrued and unpaid dividends in respect of such shares. Any dividends which shall have accrued on the Class B Preference Shares prior to the Redemption Date shall be paid prior to the payment of any dividends of the Common Shares, notwithstanding redemption of such Class B Preference Shares.

(D) **Special Share**

The rights, privileges, restrictions and conditions attaching to the Special Share are as follows:

(1) No Participation: The holders of the Special Share shall not be entitled either to receive any dividend payable by the Company or, in the event of the liquidation, dissolution or winding-up of the Company or other distribution

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of assets or property of the Company among its shareholders for the purpose of winding-up of its affairs, to receive any payment or property in respect thereof.

- (2) Voting Rights: The holder of the Special Share shall be entitled to receive notice of and to attend any meeting of the shareholders of the Company but shall not be entitled to vote at any such meeting except with respect to the following matters as to which no action shall be taken by the Company, without the affirmative vote of the holder of the Special Share:
- (a) any consolidation, merger, amalgamation with any other corporation or entity by the Company;
 - (b) any sale, transfer, assignment or other disposal of all or substantially all of the assets and undertaking of the Company, or any disposition by the Company of any property (other than inventory acquired or disposed of in the ordinary course of business) having a value in excess of 33-1/3% of the value at which the assets of the Company are carried on its books;
 - (c) any alteration or modification of the authorized share capital of the Company, including but not limited to the creation or withdrawal of any class of shares or other securities of the Company;
 - (d) the issue of shares of the Company or any obligations, charges, debts or other instruments convertible into shares of the Company or involving rights to vote at meetings of shareholders of the Company, except as may otherwise have been agreed to in writing with the holder of the Special Share;
 - (e) any material change in the Business, including any such change by way of acquisition;

any change to the rights and obligations attributed to the Special Share;

any debt or equity financing in excess of 33 1/3% of the value at which the assets of the Company are carried on its books;
 - (h) the initial public offering of Common Shares; and
 - (i) any debt financing which would have the effect of making the Company's debt/equity ratio in excess of 2:1.

ARTICLE 6.

The minimum issue prices in respect of the classes of shares set forth in Article 4, above, are:

Common Shares:	G\$100
Class A Preference Shares:	G\$100
Class B Preference Shares:	G\$100
Special Share:	G\$100

ARTICLE 7.

Restrictions on Share Transfer.

1. Special Share: The Special Share and any rights thereunder shall not be transferable or assignable.

2. Other Restrictions: There are no other restrictions on share transfers.

Number of Directors.

The Board of Directors shall first consist of two (2) Directors upon incorporation until such time as the Company has more than one shareholder, after which time it shall consist of five (5) Directors in the period prior to the initial public offering of the shares of the Company and, after such initial public offering, it shall consist of seven (7) Directors.

ARTICLE 9.

Matters required by section 28 (5) and (6) of the Act.

The net value of assets and liabilities transferred pursuant to the Guayana Electricity Corporation (Transfer of Undertaking) Order 1999 made pursuant to Section 42(4) of the Electricity Sector Reform Act, No. 11 of 1999, as certified to the Registrar by a Memorandum from the Minister responsible for the electricity sector pursuant to Section 42(6) of the Electricity Sector Reform Act and lodged with the Registrar on the date hereof, is G\$6,381,000,000. The Shares to be issued to the Government shall be credited and paid up.

ARTICLE 10.

Restrictions on the business that the Company may carry on.

None.

ARTICLE 11.

Other Provisions.

Commissions: The board of directors of the Company may from time to time authorize the Company to pay a reasonable commission to any person in consideration of his procuring or agreeing to procure purchasers for shares of the Company

ARTICLE 12.

The Incorporator of the Company is the Government of Guyana acting through the Executive Secretary and Head of the Privatisation Unit, Ministry of Finance, Government of Guyana.

SIGNATURE OF INCORPORATOR

Winston Brassington

Winston Brassington



Certified a True Copy
[Signature]
Assistant Sworn Clerk
99.9.29

Certified a True Copy
[Signature]
Assistant Sworn Clerk
99.9.29
[Signature]

DEBENTURE

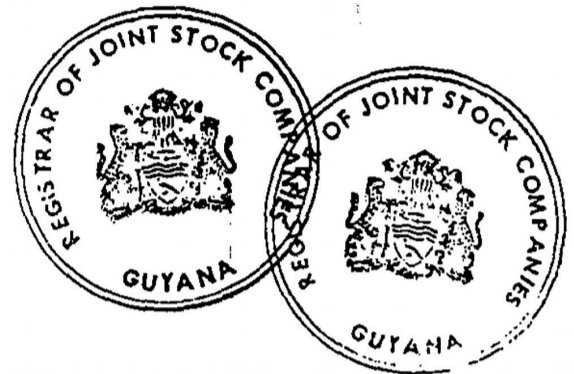
ISSUED UNDER THE AUTHORITY OF THE COMPANY'S ARTICLES OF INCORPORATION AND BY-LAWS AND PURSUANT TO A RESOLUTION OF THE DIRECTORS DATED THE ● DAY OF ● 2004.

WHEREAS GUYANA POWER & LIGHT INC., a company incorporated in Guyana under the Companies Act (No. 29 of 1991) and having its registered office at 40 Main Street, Georgetown, Guyana (hereinafter referred to as the "Company") for value received is indebted to the Cooperative Republic of Guyana (the "Holder") in the amount of G\$2,160,000,000.

Principal Amount: \$2,160,000,000 Guyana Dollars

Interest Rate: 12.0% per annum

Date: October 1, 2004



**ARTICLE 1
PROMISE TO PAY**

1.01 Promise to Pay

The Company, for value received hereby acknowledges itself indebted and promises to pay to or to the order of the Cooperative Republic of Guyana (the "Holder") the principal sum herein stipulated in ten (10) equal G\$216,000,000 annual instalments (commencing on the first anniversary (or, in each year, if such anniversary date is not a business day in Georgetown, Guyana, on the next succeeding business day) of the later of (i) the date of issuance hereof or (ii) the date of payment of the last of the accrued dividends in respect of the Class A Preference Shares and Class B Preference Shares of the Company) in lawful money of Guyana on presentation and surrender of this Debenture at the offices of the Company in Georgetown, Guyana, or at such other place as the Holder may designate in writing to the Company, and to pay interest at a rate of 12% per annum after as well as before demand, default and judgment on the outstanding principal amount hereof at such time from the date hereof at the rate per annum herein stipulated in like money at the same place; and, if the Company should at any time make default in the payment of any principal or interest to pay interest on the amount in default at the same rate in lawful money of Guyana at the same place. If on the date of a scheduled principal and interest payment under this Debenture, the Holder has not surrendered this Debenture at the offices of the Company in Georgetown, Guyana, as specified above, this Debenture shall cease to bear interest only in respect of such principal amount to have been paid upon such required surrender.

1.02 Subordination to Preference Shares.

Notwithstanding anything else in this Debenture, and even in the event of bankruptcy, liquidation, winding-up or dissolution of the Company, no interest shall be due or payable hereon (but shall accrue) and no principal sums shall be due or payable hereunder until all accrued dividends in respect of the Class A Preference Shares and Class B Preference Shares of the Company have been paid to the holders thereof.

1.3 New Debenture Following Partial Payment.

Upon surrender to the Company of this Debenture for partial payment, the Holder shall be entitled to receive, without expense to the Holder, one or more new Debentures in the same

ARTICLE 2 REDEMPTION

2.01 This Debenture may be redeemed by the Company at any time. In the event of redemption, this Debenture shall be redeemed in whole or in part prior to maturity at a redemption price (the "Redemption Price") equal to the principal amount hereof to be redeemed together with accrued and unpaid interest in respect of such amount to the date fixed for redemption (the "Redemption Date").

2.02 Notice of intention to redeem this Debenture shall be given to the Holder in the manner herein specified not later than 30 days before the Redemption Date specified in such notice. Notice having been so given, this Debenture shall become due and payable on the Redemption Date and, upon presentation and surrender hereof to the Company at its principal office in the City of Georgetown, Guyana, the Company shall pay the Redemption Price to such Holder.

2.03 From and after the Redemption Date, if monies for the redemption of this Debenture shall have been made available as provided herein for redemption on the Redemption Date, this Debenture shall cease to bear interest in respect of that portion of this Debenture to be redeemed and the only right of the Holder of this Debenture shall be to receive payment of the Redemption Price in accordance with the terms hereof.

2.04 Upon surrender to the Company of this Debenture for partial redemption only, the Holder shall be entitled to receive, without expense to the Holder, one or more new Debentures for the remaining principal amount of this Debenture following such partial redemption.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

Representations and Warranties

The Company represents and warrants to the Holder as follows:

3.01 Incorporation and Status.

The Company is duly incorporated and validly existing under the laws of Guyana and has the corporate power and capacity to own its properties and assets and to carry on its business as presently carried on by it.

3.02 Power and Capacity.

The Company has the corporate power and capacity to enter into this Debenture and to do all acts and things as are required or contemplated hereunder or thereunder to be done, observed and performed by it.

3.03 Due Authorization.

The Company has taken all necessary corporate action to authorize the execution, delivery and performance of this Debenture;

3.04 No Contravention.



[Handwritten signature]

The execution and delivery of this Debenture and the performance by the Company of its obligations hereunder does not and will not contravene, breach or result in any default under the articles, by-laws, constituting documents or other organizational documents of the Company or under any mortgage, lease, agreement or other legally binding instrument, license, permit or applicable law to which the Company is a party.

3.05 Enforceability.

This Debenture constitutes, or upon execution and delivery will constitute, a valid and binding obligation of the Company enforceable against it in accordance with its terms.

ARTICLE 4
EVENTS OF DEFAULT AND REMEDIES

4.01 Events of Default

The occurrence of any of the following events shall constitute an Event of Default:

(a) default by the Company in payment when due of any principal or interest due hereunder;

(b) the Company fails to pay to any person any indebtedness in excess of G\$1,080,000,000 in aggregate when due (whether at scheduled maturity or by required prepayment, acceleration, demand or otherwise) and such failure continues after any applicable grace period unless the Company in good faith disputes the obligation or indebtedness;

(c) any other event shall occur or condition shall exist, and shall continue after the applicable grace period, if any, specified in any agreement or instrument relating to any indebtedness or liability of the Company if the effect of such event or condition is to accelerate, or to permit the acceleration of, the maturity of such indebtedness or liability of the Company which is outstanding in an aggregate principal amount exceeding G\$1,800,000,000 unless the Company in good faith disputes the occurrence of the event or condition or its ability to accelerate the maturity of such indebtedness or liability;

(d) the Company admits its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency;

(e) the Company institutes any proceeding or takes any corporate action or executes any agreement to authorize its participation in or commencement of any proceeding:

(i) seeking to adjudicate it a bankrupt or insolvent, or

(ii) seeking liquidation, dissolution, winding up, arrangement, protection, relief or composition of it or making a proposal with respect to it under any law relating to bankruptcy, insolvency, or compromise of debts or other similar laws (including, without limitation, any application under the Companies Act, No. 29 of 1991); or

(f) any proceeding is commenced against or affecting the Company, unless the Company disputes or is contesting such proceeding in good faith:

(i) seeking to adjudicate it a bankrupt or insolvent;

(ii) seeking liquidation, dissolution, winding up, arrangement, protection, relief or composition of it or making a proposal with respect to it under any law relating to bankruptcy, insolvency, or compromise of debts or other similar laws; or

(iii) seeking appointment of a receiver, trustee, agent, custodian or other similar official for it or for any substantial part of its properties and assets;

In all instances where the Company is disputing in good faith an event of acceleration or a proceeding as described in this Section 4.1, the Holder's remedy under this Section shall only be suspended during such time as the Company is disputing such acceleration or proceeding in good faith

4.02 **Remedies Upon Default**

Upon the occurrence of any Event of Default, the Holder may:

(a) declare all principal and accrued interest to be immediately due and payable;

(b) take such actions and commence such proceedings as may be permitted at law or in equity at such times and in such manner as the Holder in its sole discretion may consider expedient,

all without any additional notice, presentment, demand, protest, notice of protest, dishonour or any other action. The rights and remedies of the Holder hereunder are cumulative and are in addition to and not in substitution for any other rights or remedies provided by applicable law.

**ARTICLE 5
REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP OF THE
DEBENTURE**

5.01 **Debenture Register**

With respect to this Debenture, the Company shall maintain at its principal office in the City of Georgetown, Guyana or at such other place in Guyana as it may designate by notice in writing, a register in which shall be entered the name and address of the holder(s) from time to time. Such registration shall be noted on this Debenture by an officer of the Company.

5.02 **Deemed Ownership**

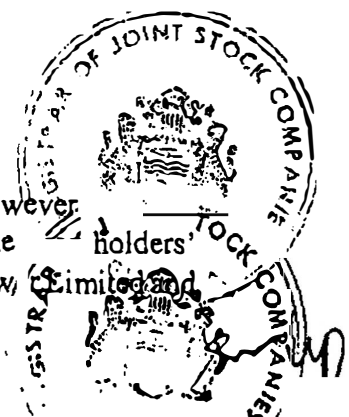
The person in whose name this Debenture shall be registered shall for all purposes be and be deemed to be the holder hereof and payment of or on account of the principal of this Debenture and interest thereon shall be made only to the order in writing of such holder.

5.03 **Registered Owners**

The Company shall not be bound to take notice of or see to the execution of any trust, whether express, implied or constructive, in respect of this Debenture and may transfer the same on the direction of the Holder, whether named as trustee or otherwise, as though the Holder were the beneficial owner thereof.

5.04 **Transfer Restrictions During Set-off Period**

This Debenture is assignable by the Holder hereof; provided however, this Debenture may not be assigned or transferred without the consent of all parties to the Agreement dated October 1, 1999 amongst the Holder, Americas and Caribbean Power Limited and





the Company for so long as the right of set-off contained in Article 10 of such agreement shall remain effective.

**ARTICLE 6
GENERAL**

6.01 Non-Negotiable

This Debenture is not a negotiable instrument.

6.02 Benefit of the Debenture

This Debenture will enure to the benefit of and be binding upon the successors and permitted assigns of the Holder.

6.03 Amendments and Waivers

No amendment to this Debenture will be valid or binding unless set forth in writing and duly executed by the Holder and the Company. No waiver of any breach of any provision of this Debenture will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided in the written waiver, will be limited to the specific breach waived.

6.04 Receipts for Payments

The receipt of any registered holder of this Debenture for any principal or interest payment made by or on behalf of the Company shall be a good discharge to the Company for the same and the Company shall not be bound to inquire into title of such holder.

6.05 Mutilated, Lost or Destroyed Debenture

In case this Debenture shall at any time become mutilated, destroyed, stolen or lost and this Debenture, or evidence of the loss, theft or destruction hereof (together with an indemnity hereinafter referred to and such other documents or proof as may be required in the premises) shall be delivered to the Company, a new Debenture of like Tenor and date will be issued by the Company in exchange for this Debenture, but, in case this Debenture has been destroyed, stolen or lost, only upon receipt of evidence satisfactory to the Company that this Debenture was destroyed or stolen or lost, and in any case, if required by the Company, upon reasonable charges associated with obtaining such indemnity and with the preparation, authentication and delivery of a new Debenture being borne by the Holder.

6.06 Severability

If any provision of this Debenture is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision or part hereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.

6.07 Notices

Any demand, notice or other communication to be given in connection with this Debenture must be given in writing and shall be delivered by hand or pre-paid post to the addresses set forth below, and shall be deemed:

- (a) in the case of personal delivery to have been duly given when the same is personally delivered to the party if an individual, to the Minister for the time being assigned



responsibility for electrical utilities at the address of his office in Georgetown, Guyana, if the party is the Cooperative Republic of Guyana, or to an officer of the party if the party is a corporation;

if sent by pre-paid post to have been duly given 72 hours after posting if the registered address is within Guyana and seven days if the registered address is outside of Guyana.

To the Cooperative Republic of Guyana:

The Minister for the time being assigned responsibility for electrical utilities at the address of his office in Georgetown, Guyana.

To the Company:

At the address of its registered office:

40 Main Street

Georgetown, Demerara,

Guyana

Attention: Chairman of the Board of Directors

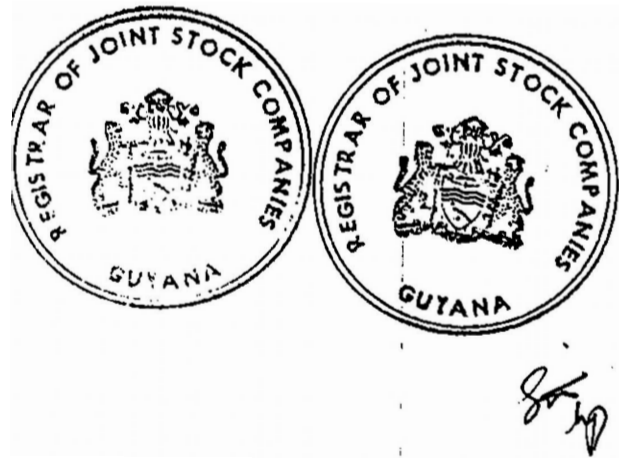
Fax: 011-592-2-●

with a copy to the Chief Executive

or such other address, individual or electronic communication number as may be designated by notice given by any party to the other.

6.08 Governing Law

This Debenture will be governed by and construed in accordance with the laws of Guyana



6.09

Executed Copy

The Holder acknowledges receipt of a fully executed copy of this Debenture.

GIVEN UNDER THE COMMON SEAL OF THE COMPANY; THIS 1ST DAY OF
OCTOBER, 2004.

GUYANA POWER & LIGHT, INC.

Per:

Per:

AND IN THE PRESENCE of the subscribing witnesses:

AND IN MY PRESENCE

NOTARY PUBLIC

QUOD ATTESTOR



Handwritten signature or initials.

GUYANA
COUNTY OF DEMERARA

THE COMPANIES ACT, 1991

DECLARATION OF COMPLIANCE

OF

GUYANA POWER & LIGHT, INC.

I, JOSEPHINE WHITEHEAD, of 2 Avenue of the Republic, Georgetown, Demerara do solemnly and sincerely declare that I am an attorney-at-law of the High Court of the supreme Court of Judicature engaged in the formation of Guyana Power & Light, Inc., that to the best of my knowledge, information and belief no signatory to the Articles of Incorporation of the said company is a person described in Section 4(2) of the Companies Act 1991 and that all the requirements of the said Act 1991 and all the requirements of the said Act in respect of the matters precedent to the registration of the said company and incidental thereto have been complied with.

AND I make this declaration conscientiously believing the same to be true and by virtue of the provisions of the statutory Declarations Act, Chapter 5:09.

DECLARED to at Georgetown, Demerara,
this 28th day of September, 1999



COMMISSIONER OF OATHS

Certified a True Copy
[Signature]
Assistant Sworn Clerk
9.9.99

Certified a True Copy
[Signature]
Assistant Sworn Clerk
9.9.99

THE COMPANIES ACT, 1991

DECLARATION OF COMPLIANCE

OF

GUYANA POWER & LIGHT, INC.

A handwritten signature or set of initials, possibly 'S. H. P.', located in the bottom right corner of the page.

SCHEDULE B - BY-LAWS OF THE CORPORATION

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**BY-LAWS
OF
GUYANA POWER & LIGHT, INC.**




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REPUBLIC OF GUYANA
COUNTY OF DEMERARA
THE COMPANIES ACT, NO. 29 OF 1991
BY-LAWS OF
GUYANA POWER & LIGHT, INC.

SECTION 1
INTERPRETATION

1.1 Definitions

In these By-Laws:

- (1) "Act" means the Companies Act, No. 29 of 1991, as amended, or superseded from time to time or any replacement or re-enactment thereof;
- (2) "Affiliate" means an affiliate as defined by Section 527 of the Act;
- (3) "appoint" includes "elect" and vice versa;
- (4) "Articles" means the articles of incorporation of the Company, as amended from time to time;
- (5) "Associate" means an associate as defined by Section 535 of the Act;
- (6) "authorised signatory" means any person authorised to sign on behalf of the Company by paragraph 2.3;
- (7) "board" means the board of Directors of the Company as constituted from time to time;
- (8) "Business Day" means a day, other than a Saturday or Sunday, when the major commercial banks are normally open for business and are open for business in the City of Georgetown, Guyana;
- (9) "By-Laws" means these by-laws as amended and supplemented from time to time;
- (10) "Company" means Guyana Power & Light, Inc.;
- (11) "Director" or "Directors" means a member or members of the board of Directors, respectively;
- (12) "ESRA" means the Electricity Sector Reform Act 1999, as amended, or superseded from time to time or any replacement or re-enactment thereof;



- (13) "Government" means the Government of the Cooperative Republic of Guyana;
- (14) "Initial Public Offering" means a widely distributed initial public offering of shares in the Company to residents of Guyana, the CARICOM nations and other jurisdictions;
- (15) "instruments in writing" means deeds, mortgages, hypothecations, charges, conveyances, transfers and assignments of property, real or personal, movable or immovable, agreements, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures, notes or other securities and all other paper writings;
- (16) "Investor" means Americas and Caribbean Power Limited, a company incorporated in the British Virgin Islands;
- (17) "Management Agreement" means the agreement under which the Manager is retained to manage and conduct the business and affairs of the Company;
- (18) "Manager" means Americas and Caribbean Power Limited or such other party which may assume the duties and obligations of Manager in relation to the management of the Company;
- (19) "officer" means any of the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Secretary or any other person holding an office designated by the board;
- (20) "Outside Director" means a person elected to the board who is not and has not been, at any time, an officer, Director or employee of the Investor or any of its Affiliates;
- (21) "registered address" means, in the case of a shareholder, his address as recorded in the register of shareholders; and, in the case of joint shareholders, the address appearing in the register of shareholders in respect of such joint holding or the first address so appearing if there is more than one; and in the case of a Director, officer, auditor or member of a committee of the board of Directors, his latest address as recorded in the register of Directors;
- (22) "Shareholder" means the Government or the Investor and "Shareholders" means both of them;
- (23) "shareholder" means the holder of any share or shares of the Company;
- (24) "Special Shareholder" means the holder of the special share of the Company having the rights, privileges, restrictions and conditions attributed to such share in the Articles;
- (25) all terms contained in the By-Laws, and which are not defined herein but are defined in the Act, shall have the meanings given to such terms in the Act; and



- (26) the singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine and neuter genders; and the word "person" shall include individuals, bodies corporate, corporations, companies, partnerships, syndicates, trusts, unincorporated organizations and any number or aggregate of persons.

SECTION 2 BUSINESS OF THE CORPORATION

2.1 Corporate Seal

The Company shall have a common seal which shall be adopted, and may be changed, by resolution of the board. The Directors shall provide for the safe custody of the seal, which shall only be used by the authority of the Directors; every instrument to which the seal is affixed shall be signed by any two officers acting together or any other person or persons authorised by a board resolution.

2.2 Financial Year

The financial year of the Company shall be January 1 to December 31 or as otherwise determined by the board from time to time.

2.3 Execution of Instruments

Contracts, documents or instruments in writing requiring the signature of the Company may be signed on behalf of the Company by any two officers and instruments in writing so signed shall be binding upon the Company without further authorization, formality or requirement of seal. The board shall have power from time to time by resolution to authorise any officer or any other person or persons on behalf of the Company either to sign contracts, documents and instruments in writing generally or to sign specific contracts, documents or instruments in writing.

The signature or signatures of the secretary and any officer may, if specifically authorized by resolution of the Directors, be printed, engraved, lithographed or otherwise mechanically reproduced upon any share certificate issued by the Company and any share certificate of the Company on which the signature or signatures of the secretary or any other officer is so reproduced shall be deemed to have been manually signed by such secretary or officer and shall be as valid as if it had been signed manually notwithstanding that the secretary or officer may have ceased to hold office at the date of the issue of such share certificate.

2.4 Custody of Securities

All shares and securities owned by the Company shall be lodged (in the name of the Company) with a bank or a trust company or in a safety deposit box at a bank or trust company in Guyana or, if so authorized by resolution of the board, with such other depositaries or in such other manner as may be determined from time to time by resolution of the board.

All share certificates, bonds, debentures, notes or other obligations or securities belonging to the Company may be issued or held in the name of a nominee or nominees of the Company (and if issued or held in the names of more than one nominee shall be held in the names of the nominees jointly with the right of survivorship) and shall be endorsed in blank with endorsement guaranteed in order to enable transfer to be completed and registration to be effected.

2.5 Voting Shares and Securities in other Companies

All of the shares or other securities carrying voting rights of any other body corporate held from time to time by the Company may be voted at any and all meetings of shareholders, bondholders, debenture holders or holders of other securities (as the case may be) of such other body corporate and in such manner and by such person or persons as the board shall from time to time by resolution determine. The proper signing officers of the Company may also from time to time execute and deliver for and on behalf of the Company proxies and/or arrange for the issuance of voting certificates and/or other evidence of the right to vote in such names as they may determine without the necessity of a resolution or other action by the board.

2.6 Books of Account

Proper books of account shall be kept by the Company and entries shall be made in such books of all such matters, terms, transactions and things as are usually written and entered in books of account kept by companies engaged in prudent commercial enterprises of a similar nature in the United Kingdom, provided the same shall be reasonably approved by the auditors of the Company.

2.7 Auditor

The auditor of the Company shall be appointed by the board until the first meeting of Shareholders, at which time, and at each subsequent annual general meeting, the shareholders shall by ordinary resolution appoint an auditor to hold office until the next annual general meeting. The auditor shall be a partner of a firm of auditors of international stature and a member of the Institute of Chartered Accountants of Guyana, which partner and firm shall not be affiliated with either of the Shareholders. The auditor shall, at the end of the financial year of the Company (and at such other times as he may be reasonably requested by the board), make an audit of and examine the books and accounts of the Company and for such purposes the auditor shall have access to all books of account, records and all vouchers, cheques, papers and documents of or which may relate to the Company

SECTION 3 DIRECTORS

3.1 **Composition of the board**

The board shall first consist of two Directors upon incorporation until such time as the Company has more than one shareholder, after which time it shall consist of five (5) Directors in the period prior to the Initial Public Offering of the shares of the Company and, after such Initial Public Offering, it shall consist of seven (7) Directors.

3.2 **Quorum**

The quorum for a board meeting shall first be two Directors until such time as the Company has more than one shareholder, after which time it shall be four (4) Directors (five (5) Directors following completion of an Initial Public Offering), and if at a meeting of the board there is no quorum, the Directors present at such meeting shall adjourn the meeting for a period of not less than 24 hours and not more than 48 hours at which adjourned meeting the quorum shall be three (3) Directors (four (4) Directors following completion of an Initial Public Offering).

3.3 **Nomination**

The Investor, for so long as it is a holder of common shares, shall be entitled to nominate a total of two (2) Directors and the Government, for so long as it is a holder of common shares, shall be entitled to nominate a total of two (2) Directors. One (1) additional Director shall be selected by the Government from a list of two candidates presented by the Investor, each of whom shall qualify as an Outside Director, and if the Government does not select one of the proposed Directors for nomination within 30 days of receiving the list, the Investor may make such selection. Following completion of the Initial Public Offering, the size of the board shall be increased by two (2) additional Directors. One (1) additional Director shall be selected by the shareholders other than the Investor and the Government and one (1) additional Director shall be selected by the Government from a list of two (2) potential Directors submitted by the Investor, each of whom would qualify as an Outside Director. If the Government does not select one of these two proposed Directors for nomination within 30 days of receiving the list, the Investor may make such selection. All nominations shall be lodged with the secretary not later than 48 hours before the general meeting at which the Director's appointment is to be voted on.

3.4 **Appointment**

Other than as provided in this section, any person nominated to be a Director may only be appointed by an ordinary resolution of shareholders.

A quorum of Directors may fill a vacancy among the Directors with a replacement nominated by the shareholder(s) who nominated the Director whose resignation or removal resulted in such vacancy until a replacement Director is appointed under Section 3.9 hereof. In the case of a vacancy of an Outside Director, the Investor must provide the names of two

(2) candidates within fourteen (14) days of the vacancy and the Government shall have thirty (30) days to make its selection. If the Government does not make such selection within the specified time, the Investor may make such selection.

3.5 Alternates

Each Shareholder shall, from time to time, be entitled to designate in writing to the board one other person willing to act as an alternate Director for each of its nominees other than the Outside Directors selected by the Government from the list candidates presented by the Investor. Each Shareholder may, by similar notice in writing, remove or replace an alternate Director from time to time. Each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which the Director for whom he is the designated alternate is a member, and to attend and vote at any such meeting at which the Director for whom he is the alternate is not personally present or otherwise participating in, and generally to perform all functions of the Director for whom he is the alternate as a Director in his absence. An alternate Director shall cease to be an alternate Director if the Director for whom he is the alternate ceases to be a Director. At any meeting of the board at which an alternate Director attends in place of the Director for whom he is the alternate, such alternate Director shall be deemed for all purposes to be a Director, including in respect of fiduciary duties, and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director for whom he is the alternate. The designation of an alternate Director and any acts of such alternate Director shall in no way diminish the fiduciary obligations of the Director for whom he is the alternate or the obligation of every Director (alternate or otherwise) to ensure that prior to any meeting of the board at which he would act as a Director, he fully informs himself as to all relevant information relating to matters pending before the board at such meeting.

3.6 Qualification

No person may be nominated as a Director if he is less than 18 years of age; if he is of unsound mind and has been so found by a court in Guyana or elsewhere; or if he has the status of a bankrupt or if he is not an individual.

3.7 Election and Term

The first Directors shall be appointed in accordance with Section 67 of the Act and shall hold office until the first general meeting of the Company.

At the annual general meeting in every year all of the Directors shall retire from office but shall act as Directors throughout the meeting and subject to Section 3.6 shall be eligible for re-election.



3.8 Removal of Directors

The shareholders may, by an ordinary resolution of the shareholders at an annual general meeting or an extraordinary general meeting, remove any Director from office, and the vacancy created by such removal may be filled in accordance with Section 3.9 at the same meeting.

3.9 Vacancy in Board

In the event of the removal of a Director, or any vacancy on the board, the nomination of the replacement Director shall be made by the shareholder(s) who nominated the Director being replaced, except that, in the case of a vacancy of an Outside Director selected by the Government from a list of two nominees proposed by the Investor, the Investor must provide the names of two (2) candidates within fourteen (14) days of the vacancy and the Government shall have thirty (30) days from the date of notification of the two candidates proposed by the Investor to make its selection. If the Government does not make such selection within the specified time, the Investor may make such selection. Where a Director is nominated by the Investor the Government shall vote in favour of such Director and where a Director is nominated by the Government, the Investor shall vote in favour of such Director.

3.10 Meetings

All meetings of the board shall be held in Guyana (unless otherwise agreed to by two-thirds (2/3) of all of the Directors) and shall take place on an approximately monthly basis, but in any event no less frequently than once every eight weeks, for the first 18 months after the date of incorporation of the Company, and thereafter on a quarterly basis unless extraordinary circumstances intervene. A majority of the meetings of the board are to be held in Guyana.

3.11 Resolutions in Writing

A resolution in writing signed by all the Directors entitled to vote on that resolution shall be as valid and effectual as if passed at a meeting of the Directors duly convened and held.

3.12 Convening of Meetings

The Secretary, when directed by the board, the Chairman of the board, or any two Directors, shall convene a meeting of the board.

3.13 Notice of Meeting

The Secretary shall give each Director, whether resident in Guyana or not, not less than seven (7) days notice of the date, time and place of each meeting of the board. A notice of a meeting of Directors need not specify the purpose of or the business to be transacted at the meeting. The Secretary shall send with the notice an agenda setting out the matters which



the Directors intend to discuss, but this shall not preclude the Directors from discussing other matters or carrying on other business.

A Director may in writing waive notice of or otherwise consent to a meeting of the board.

3.14 Virtual Attendance

A Director may participate in a meeting of the board or of a committee of the board by teleconference call or videoconference call, or other communications facilities as permit all persons participating in the meeting to hear each other, and a Director participating in such a meeting by such means is deemed to be present at the meeting.

Directors may not make any electronic or other complete record or transcript of all of the proceedings at such meetings without first informing the other Directors present, in person or otherwise, at such meeting and obtaining the approval of two-thirds (2/3) of the Directors present at such meeting.

3.15 First Meeting of New Board

Provided a quorum of Directors is present, each newly elected board may, without notice, hold its first meeting immediately following the meeting of shareholders at which such board is elected.

3.16 Adjourned Meeting

In the event that at any duly convened meeting of the Directors or of any committee of the Directors a quorum is not present or if during the meeting such quorum ceases to be present the meeting shall be adjourned for a period of not less than 24 hours nor more than 48 hours and at such adjourned meeting the quorum shall be three (3) Directors (four (4) Directors following completion of an Initial Public Offering).

3.17 Regular Meetings

The board may appoint a day or days in any month or months for regular meetings of the board at a place and hour to be named. A copy of any resolution of the board fixing the place and time of such regular meetings shall be sent to each Director forthwith after being passed, but no other notice shall be required for any such regular meeting except where the Act requires the purpose thereof or the business to be transacted thereat to be specified

3.18 Chair and Vice Chair of the Board

The Chair and Vice Chair of the board shall be appointed by the board, provided that, without the consent of the Government and the Investor, at all times the Chair and Vice-Chair cannot both be nominee Directors of either the Government or the Investor. The Chair and the Vice Chair shall not have a casting vote or other special voting rights. The Chair shall consult the Vice Chair concerning the calling of meetings of the board and the

setting of agendas for such meetings. In the event that the Chair is unable or unwilling to chair the meeting, the meeting shall be chaired by the nominee of the Chair.

In case of an equality of votes the Chair of the meeting shall not be entitled to a second or casting vote.

3.19 Votes to Govern

At all meetings of the board every question, other than those requiring special consent under paragraph 3.20 below, shall be decided by a majority of the votes cast on the question.

3.20 Matters Requiring Special Consent

Notwithstanding any other provision of these By-laws, and in addition to any shareholder approvals required under the Act, no action shall be taken by the Company on any of the matters set out below without the consent of two-thirds (2/3) of the members of the board entitled to vote on such matters:

- (a) any amendments to or repeal of the Articles or these By-laws or other constating documents of the Company;
- (b) any change in the number of members of the board from that provided for in these by-laws or the Articles of Incorporation and any action which would derogate from the rights of the Government or the Investor to nominate and vote for the election of Directors;
- (c) any change in the domicile or registered office of the Company;
- (d) any consolidation, merger, amalgamation or other combination by the Company with any other corporation or entity;
- (e) any alteration or modification of the authorized share capital of the Company, including but not limited to the creation or withdrawal of any class of shares of the Company;
- (f) any sale, transfer, assignment or other disposal of all or substantially all of the assets and undertaking of the Company, or any acquisition or disposition by the Company of any property (other than inventory acquired or disposed of in the ordinary course of business) having a value in excess of 20% of the aggregate value at which the assets of the Company, are carried on its books;
- (g) the issue or entry into any agreement for the issue of shares, including but not limited to any public offering or private placement, or the issue or transfer of any obligations, charges, debts or other instruments convertible into shares or involving rights to vote;

- (h) the taking or institution of any proceedings for the winding up, dissolution, termination or reorganization of the Company;
- (i) any material change in the undertaking of the business of the Company or any operation by the Company or any material transaction out of the ordinary course of the business of the Company;
- (j) the making of any distribution (other than in accordance with the dividend policy of the Company or by way of share redemption), or making, recommending or declaring any dividend which is beyond the provisions of the dividend policy of the Company in cash, stock or specie (including bonuses) to shareholders or Directors;
- (k) the borrowing of any individual amount by the Company or the encumbrance of any asset or assets which exceed 20% or more of the value at which the assets of the Company are carried on its books, or amounts which during any fiscal year will in aggregate exceed 33 1/3% of such value;
- (l) the making of any individual capital expenditure which exceeds 20% or more of the value at which the assets of the Company are carried on its books, or amounts which during any fiscal year will in aggregate exceed 33 1/3% of such value;
- (m) the entering into by the Company of any material contract or other commitment out of the ordinary course of business, or any material contract or commitment which has a term exceeding ten (10) years, but not including the first five year extension of the Management Agreement;
- (n) the giving of any form of financial assistance to any Shareholder; or
- (o) the fixing of or any material change to the compensation, bonus or other form of remuneration to a Director.

3.21 Conflict of Interest

A Director shall not be prohibited from voting on any matter simply because such matter involves a transaction or agreement with the Shareholder that has nominated him to the board

On any vote by the board relating to any transaction or agreement with the Investor or any Affiliate thereof (an "Investor Transaction"), or with the Government, or any department or agency of the Government or any public corporation that is majority-owned, directly or indirectly, by the Government (a "Government Transaction"), concerning the purchase or sale of goods or services, or the borrowing or lending of monies, such vote shall only be carried if: (i) in the case of an Investor Transaction, a majority of the Directors nominated by the Government and Outside Director(s), counted together, vote in favour of such matter or (ii) in the case of a Government Transaction, a majority of the Directors nominated by the Investor and the Outside Director(s), counted together, vote in favour of such matter.

3.22

Related Party Matters

Without limiting the generality of the provisions of Section 3.21 the following matters shall not be carried unless a majority of the votes cast by the nominees of the Government and the Outside Director(s), counted together, are cast in favour of such resolution:

- (i) considering any alleged breach by the Manager of a term of the Management Agreement;
- (ii) considering or taking any actions required to enforce any covenants or any material terms of the Management Agreement or any actions required in response to any breach or alleged breach by the Manager of the Management Agreement;
- (iii) considering the Company's response to a request from the Manager to consent to assignment of the Management Agreement by the Manager to another person;
- (iv) considering any proposed amendment to the Management Agreement (for greater certainty, a vote on the first five year extension of the term of the Management Agreement shall not be considered to be an amendment to the Management Agreement);
- (v) considering any extension or renewal of the Management Agreement with the Investor beyond the date which is 15 years after the Commencement Date (as defined in the Management Agreement), or the appointment by any other means of the Investor or any of its Affiliates or Associates as manager of the Company or in any similar capacity beyond that date; and
- (vi) the Company's compliance with a direction from the Government to terminate the Management Agreement on the grounds that the Manager's direct ownership of common shares of the Company has fallen below 25% of the issued common shares.

Notwithstanding the foregoing, the Directors appointed by the Investor shall be entitled to vote on any matters relating to the Management Agreement other than (i) those matters set out above; and, (ii) any matter which involves the purchase or sale of goods or services, or the borrowing or lending of monies, between the Manager and the Company, and the restrictions contained in Section 3.21(i) above shall not apply to such votes.

3.23

Remuneration and Expenses

The Directors shall be paid at rates of remuneration specified in any written service agreement between the Company and the Directors which has been authorized by the shareholders. The Directors shall also be entitled to a per diem as authorized by the shareholders and to be reimbursed for reasonable travel expenses properly incurred by them in attending meetings of the shareholders or of the board or any committee thereof or

otherwise in the performance of their duties. Nothing herein contained shall preclude any Director from serving the Company in any other capacity (other than as auditor) and receiving remuneration therefor.

SECTION 4 COMMITTEES

4.1 Committee of Directors

The board may, by simple majority, create an Executive Committee, or any other committees deemed appropriate from time to time, with such authority as may be delegated to it by the board, provided that, unless otherwise unanimously agreed by the board, any such committee shall consist of three members composed of one Director nominated by the Government, one Director nominated by the Investor and one Outside Director, and provided that such delegation shall not derogate from those matters requiring special consent pursuant to Section 3.20.

4.2 Transaction of Business

Subject to the provisions of this Section and any instructions received from the board, the committee may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Each committee shall have power to fix its quorum at not less than a majority of its members and to elect its chairman who shall not have a casting vote. The powers of a committee of Directors may be exercised by a meeting at which a quorum is present or by resolution in writing signed by all members of such committee who would have been entitled to vote on that resolution at a meeting of the committee.

4.3 Audit Committee

The board shall elect an Audit Committee on an annual basis comprising a Director nominated by the Government, a Director nominated by the Investor (other than a Director who is an employee or officer of the Company or who is an employee or officer of the Investor or any Affiliate or Associate of the Investor who is directly involved in the day to day management of the Company except in his capacity as a Director) and an Outside Director.

The Audit Committee shall advise the board in respect of:

- (a) the ongoing review of the internal control procedures of the Company;
- (b) the ongoing review of the Company's accounting systems, information systems, and internal control structures;
- (c) the consistency and fair presentation of accounting and operating information and other treatment in the audited and unaudited financial statements of the Company;

- (d) ensuring that the auditors of the Company have full and open access to all of its books and records of the Company consistent with the performance of their auditing function;
- (e) the performance and remuneration of the auditors; and
- (f) any other matters as are delegated to it by the Board.

SECTION 5 OFFICERS

5.1 Appointment

The board may from time to time appoint officers such as a Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Secretary.

5.2 Terms of Employment and Remuneration

The terms of employment and the remuneration of an officer appointed by the board shall be as determined by the board from time to time. The fact that any officer or employee is a Director or shareholder of the Company shall not disqualify him from receiving such remuneration as may be so determined.

5.3 Agents and Attorneys

The board shall have power from time to time to appoint agents or attorneys for the Company in or outside Guyana with such powers of management or otherwise (including the powers to subdelegate) as may be thought fit.

5.4 Conflict of Interest

An officer shall disclose his interest in any material contract or transaction or proposed material contract or transaction with the Company.

SECTION 6 PROTECTION OF DIRECTORS, OFFICERS AND OTHERS

6.1 Indemnity

Subject to the limitations contained in the Act, the Company shall indemnify a Director or officer, a former Director or officer, or a person who acts or acted at the Company's request as a Director or officer of a body corporate of which the Company is or was a shareholder or creditor, and his heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him in respect of any civil, criminal or administrative action or proceeding to which he is

made a party by reason of being or having been a Director or officer of the Company or such body corporate, if

- (a) he acted honestly and in good faith with a view to the best interest of the Company; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he had reasonable grounds for believing that his conduct was lawful. The Company shall also indemnify such person in such other circumstances as the Act permits or requires.

6.2 Insurance

The Company may purchase and maintain insurance for the benefit of any person referred to in paragraph 6.1 against such liabilities and in such amounts as the board may from time to time determine and are permitted by the Act.

SECTION 7 SHARES

7.1 Transfers of Shares and Registration of Transfers

Subject to the provisions of the Act, no transfer of shares shall be registered in a register of shareholders except upon presentation of the certificate representing such shares with an instrument of transfer duly executed by the transferor and the transferee together with such assurance that the transfer instrument is genuine and effective as the board may from time to time require, upon payment of all applicable taxes and any fees prescribed by the board, upon compliance with such restrictions on transfer as are authorized by the Articles.

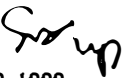
An instrument of transfer of shares shall state the name of the transferee, and the number of shares transferred and shall be in respect of one class of shares only.

The registration of transfers may be suspended at such times and for such periods as the board may from time to time determine provided that such registration shall not be suspended for more than thirty days in any year.

As regards the Company, the transferor shall be deemed to remain the holder of the shares until the name of the transferee is entered in the shareholders register.

7.2 Transfer Agents and Registrars

The board may from time to time appoint one or more agents to maintain, in respect of each class of securities of the Company issued by it in registered form, a securities register and one or more branch securities registers. Such a person may be designated as transfer agent and registrar according to his functions and one person may be designated both registrar and transfer agent. The board may at any time terminate such appointment.



7.3 Non-recognition of Trusts

Except in the case of a personal representative, the Company may not enter notice of a trust (express, implied or constructive) in any of its registers.

7.4 Replacement of Share Certificates

If a share certificate is lost, destroyed or defaced it may be renewed upon payment of a fee of \$3,000, and on such terms as to indemnity, reimbursement of expenses and evidence of loss and of title as the Directors think fit.

7.5 Joint Shareholders

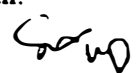
If two or more persons are registered as joint holders of any share, the Company shall not be bound to issue more than one certificate in respect thereof, and delivery of such certificate to one of such persons shall be sufficient delivery to all of them. Any one of such persons may give effectual receipts for the certificate issued in respect thereof or for any dividend, bonus, return of capital or other money payable or warrant issuable in respect of such shares.

7.6 Transmission Of Shares And Debentures

In case of the death of a shareholder or debenture holder the survivor or survivors where the deceased was a joint holder, and the legal personal representative of the deceased where he was a sole holder, shall be the only person recognised by the Company as having any title to his shares or debentures; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

Any person becoming entitled to shares or debentures in consequence of the death or bankruptcy of a shareholder or debenture holder may, upon such evidence being produced as may from time to time properly be required by the Directors and subject as hereinafter provided, elect either to be registered himself as holder of the shares or debentures or to have some person nominated by him registered as the transferee thereof, but the Directors shall, in either case, have the same right to decline, refuse or suspend registration as they would have had in the case of a transfer of the shares or debentures by that shareholder or debenture holder before his death or bankruptcy, as the case may be.

A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share except that he shall not, before being registered as a shareholder in respect of the share, be entitled in respect of it to exercise any right conferred by being a shareholder in relation to meetings of the Company; but the board may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share, and, if the notice is not complied with within ninety days the board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.



**SECTION 8
DIVIDENDS AND RIGHTS**

8.1 Dividends

Dividends may be paid in money or by issuing fully paid shares of the Company.

The Company may by ordinary resolution declare dividends in respect of any year or other period.

The board may from time to time pay to the shareholders such interim dividends as appear to the board to be justified by the profits of the Company.

8.2 Dividend Cheques

A dividend payable in cash shall be paid by cheque drawn on the Company's bankers or one of them to the order of the registered shareholder and hand delivered or sent by prepaid ordinary mail to such registered shareholder at his recorded address. In the case of joint holders the cheque shall, unless such joint holders otherwise direct, be made payable to the order of all of such joint holders and mailed to the recorded address of the joint shareholder whose name appears first in the register of shareholders. The mailing of the dividend cheque, unless it is not paid on due presentation, shall satisfy and discharge the Company's liability for the dividend to the extent of the sum represented plus the amount of any tax which the Company is required to and does withhold.

8.3 Non-receipt of Cheques

In the event of non-receipt of any dividend cheque by the person to whom it is sent as aforesaid, the Company shall issue to such person a replacement cheque for a like amount on such terms as to indemnity, reimbursement of expenses and evidence of non-receipt and of title as the board may from time to time prescribe, whether generally or in any particular case.

8.4 Record Date for Dividends and Rights

The board may fix in advance a date, preceding by not more than 50 days the date for the payment of any dividend or the date for the issue of any warrant or other evidence of the right to subscribe for securities of the Company, as a record date for the determination of the persons entitled to receive payment of such dividend or to exercise the right to subscribe for such securities, and notice of any such record date shall be given not less than seven days before such record date in the manner provided by the Act. If no record date is so fixed, the record date for the determination of the persons entitled to receive payment of any dividend or to exercise the right to subscribe for securities of the Company shall be at the close of business on the day on which the resolution relating to such dividend or right to subscribe is passed by the shareholders.



8.5 Unclaimed Dividends

Any dividend unclaimed after a period of six years from the date on which the same has been declared to be payable shall be forfeited and shall revert to the Company.

**SECTION 9
MEETINGS OF SHAREHOLDERS**

9.1 Annual General Meetings

The Annual General Meeting of the Company shall be held at such time and on such day in each year as the board may by resolution determine.

All business transacted at an Annual General Meeting shall be special business except for the consideration of the financial statements, the auditor's report, electing Directors, and re-appointing an incumbent auditor.

9.2 Extraordinary General Meetings

The board shall have power to call an extraordinary general meeting of shareholders at any time and must do so upon the requisition of the holder or holders of not less than 10% of the issued shares of the Company carrying a right to vote.

9.3 Place of Meetings

Meetings of shareholders shall be held at the registered office of the Company or, if the board shall so determine, at some other place in Guyana.

9.4 Notice of Meetings

An Annual General Meeting, an Extraordinary General Meeting and any meeting called for the purpose of passing a special resolution shall be called by not less than 21 days nor more than 50 days notice in writing to every shareholder whether or not entitled to attend and vote at the meeting.

Notice of a meeting of shareholders at which special business is to be transacted shall state the nature of such business in sufficient detail to permit the shareholder to form a reasoned judgment thereon and in the case of a special resolution the notice must state the text of the special resolution.

A shareholder and any other person entitled to attend a meeting of shareholders may in any manner waive notice of or otherwise consent to a meeting of shareholders.



9.5 Meetings without Notice

A meeting of shareholders may be held without notice at any time and place permitted by the Act:

- (a) if all the shareholders entitled to vote thereat are present in person or represented by proxy waive notice of or otherwise consent to such meeting being held, and
- (b) if the auditor and the Directors are present or waive notice of or otherwise consent to such meeting being held, so long as such shareholders, auditor and Directors present are not attending for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. At such a meeting any business may be transacted which the Company at a meeting of shareholders may transact. Shareholders not present or represented by proxy, but who have waived notice of or otherwise consented to such meeting, shall also be deemed to have consented to the meeting being held at such time and place.

9.6 Chair and Secretary

The chair of any meeting of shareholders shall be the Chair of the board. In the event that the Chair is unwilling or unable to chair the meeting, the meeting shall be chaired by the nominee of the Chair. If neither the Chair nor the nominee of the Chair is present within 15 minutes from the time fixed for holding the meeting, the persons present and entitled to vote shall choose one of their number to be chair. If the Secretary of the Company is absent, the Chair shall appoint some person, who need not be a shareholder, to act as secretary of the meeting.

9.7 Quorum

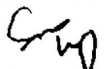
Subject to Section 9.15, a quorum for the transaction of business at any meeting of shareholders shall be one shareholder present in person, or represented by proxy, and holding or representing not less than one half of the issued shares of the Company entitled to vote at such meeting.

9.8 Proxies

In accordance with Sections 142 and 149 of the Act, any shareholder entitled to attend and vote at a meeting of shareholders of the Company shall be entitled to appoint another person, whether a shareholder or not, as his proxy to attend and vote instead of him and the proxy shall, subject to that section, have the same rights as the shareholder to speak at the meeting.

An instrument appointing a proxy, shall be in the following form or a form as near thereto as circumstances admit:

“ Guyana Power & Light, Inc.



I/We _____ of _____, in the county of _____, being a member/members of the above-named Company hereby appoint _____ of _____, or failing him, _____ of _____, as my/our proxy to vote for me/us on my/our behalf at the annual or extraordinary (as the case may be) general meeting of the Company to be held on day of _____ 19____, and at any adjournment thereof.

Signed this _____ day of _____

9.9 Time for Deposit of Proxies

The board may by resolution specify in a notice calling a meeting of shareholders a time, preceding the time of such meeting or an adjournment thereof by not more than 48 hours exclusive of any part of a non-business day, before which time proxies to be used at such meeting must be deposited. A proxy shall be acted upon only if, prior to the time so specified, it shall have been deposited with the Company or an agent thereof specified in such notice or, if no such time is specified in such notice, only if it has been received by the Secretary of the Company or by the chairman of the meeting at the meeting or any adjournment thereof prior to the time of voting.

9.10 Joint Shareholders

If two or more persons hold shares jointly, any one of them present in person or by proxy may, in the absence of the other or others, vote the shares; but if two or more jointholders are present in person or by proxy and vote, the vote of the senior who tenders a vote shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the shareholders register.

9.11 Voting

Every question at a meeting of shareholders shall be decided by a show of hands unless a person entitled to vote at the meeting demands a poll before or on the declaration of the result of the show of hands. Whenever a vote by show of hands shall have been taken upon a question, unless a poll thereon is so required or demanded, a declaration by the chair of the meeting that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be prima facie evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.

9.12 Poll

If a poll is duly demanded it shall be taken in such manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was taken. A requirement or demand for a poll may be withdrawn at any time prior to the taking of the poll.



9.13 Adjournment

The chairman at a meeting of shareholders may with the consent of the meeting and subject to such conditions as the meeting may decide, or where otherwise permitted under the provisions of the Act, adjourn the meeting from time to time and from place to place. If a meeting of shareholders is adjourned for thirty days or more, notice of the adjourned meeting shall be given as if for the original meeting and it shall not otherwise be necessary to give notice of an adjourned meeting.

9.14 Resolution in Writing

A resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders duly convened and held.

9.15 Matters Requiring Consent of Special Shareholder

Notwithstanding any other provision contained in these By-laws, no action shall be taken by the Company without the consent of the Special Shareholder in respect of any of the following matters:

- (a) any consolidation, merger, amalgamation with any other corporation or entity by the Company;
- (b) any sale, transfer, assignment or other disposal of all or substantially all of the assets and undertaking of the Company, or any disposition by the Company of any property (other than inventory acquired or disposed of in the ordinary course of business) having a value in excess of 33-1/3% (one-third) of the value at which the assets of the Company are carried on its books;
- (c) any alteration or modification of the authorized share capital of the Company, including but not limited to the creation or withdrawal of any class of shares or other securities of the Company;
- (d) the issue of shares of the Company or any obligations, charges, debts or other instruments convertible into shares of the Company or involving rights to vote at any meeting of shareholders of the Company except as otherwise provided herein;
- (e) any material change in the Company's business, including any such change by way of any acquisition;
- (f) any change to the rights and obligations attributed to the Special Share;
- (g) any debt or equity financing in excess of 33-1/3% (one-third) of the value at which the assets of the Company are carried on its books;
- (h) a public offering of common shares by the Company; and



- (i) any debt financing which would have the effect of making the Company's debt/equity ratio in excess of 2:1.

**SECTION 10
INFORMATION AVAILABLE TO SHAREHOLDERS**

10.1 Directors Right to Inspect

Each of the Directors, shall have free access to inspect at reasonable times and examine the books of account of the Company.

**SECTION 11
NOTICES**

11.1 Method of Giving Notices

- (a) Any notice to be given to any shareholder or debentureholder shall be delivered by hand or pre-paid post to the most recent address supplied by the shareholder or debentureholder to the Company for the giving of notices save that in the case of the Government, any notice to be given shall be delivered by hand or pre-paid post to the Office of the Prime Minister.
- (b) Any notice to be given to a Director, officer, auditor or member of a committee of the board may be delivered by hand, or sent by facsimile transmission to the registered address, and shall be deemed:
 - (i) in the case of delivery by hand to have been duly given when the same is personally delivered to the party if an individual or to an officer of the party if the party is a corporation; or
 - (ii) if sent by facsimile transmission, to have been duly received on the next business day following such delivery and acknowledgement of receipt by the recipient's facsimile machine.
- (c) A notice sent by pre-paid post shall be deemed to be delivered 72 hours after posting if posted to a registered address within Guyana and seven days after posting if posted to a registered address outside of Guyana.



11.2 Signature to Notices

The signature of any Director or officer of the Company to any notice or document to be given by the Company may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.

11.3 Proof of Service

A certificate of the Chairman of the board, the Secretary or the Treasurer or of any other officer of the Company in office at the time of the making of the certificate or of a transfer officer of any transfer agent or branch transfer agent of shares of any class of the Company as to the facts in relation to the mailing or other delivery method of any notice or other document to any shareholder, Director, officer or auditor or publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every shareholder, Director, officer or auditor of the Company as the case may be.

11.4 Notice to Joint Shareholders

All notices with respect to shares registered in more than one name shall, if more than one address appears on the records of the Company in respect of such joint holdings, be given to all of such joint shareholders at the first address so appearing, and notice so given shall be sufficient notice to the holders of such shares.

11.5 Computation of Time

In computing the date when notice must be given under any provision requiring a specified number of days notice of any meeting or other event both the date of giving the notice and the date of the meeting or other event shall be excluded.

11.6 Undelivered Notices

If any notice given to a shareholder pursuant to paragraph 12.1 is returned on three consecutive occasions because he cannot be found, the Company shall not be required to give any further notices to such shareholder until he informs the Company in writing of his new address.

11.7 Omissions and Errors

The accidental omission to give notice to any shareholder or the non-receipt of any notice by any such person or any error in any notice not affecting the substance thereof shall not invalidate the proceedings at any meeting held pursuant to such notice.



11.8 Deceased Shareholders

Any notice or other document delivered or sent by post or left at the address of any shareholder as the same appears in the records of the Company shall, notwithstanding that such shareholder be then deceased, and whether or not the Company has notice of his decease, be deemed to have been duly served in respect of the shares held by such shareholder (whether held solely or with any person or persons) until some other person be entered in his stead in the records of the Company as the holder or one of the holders thereof and such service shall for all purposes be deemed a sufficient service of such notice or document on his heirs, executors or administrators and on all persons, if any, interested with him in such shares.

11.9 Persons Entitled by Death or Operation of Law

Every person who, by operation of law, transfer, death of a shareholder or any other means whatsoever, shall become entitled to any share, shall be bound by every notice in respect of such share which shall have been duly given to the shareholder from whom he derives his title to such share prior to his name and address being entered on the shareholders' register (whether such notice was given before or after the happening of the event upon which he became so entitled) and prior to his furnishing to the Company the proof of authority or evidence of his entitlement prescribed by the Act.

11.10 Waiver of Notice

Any shareholder (or his duly appointed proxy holder), Director, officer, ~~auditor or member~~ of a committee of the board may at any time waive any notice, or waive or abridge the time for any notice, required to be given to him under any provision of the Act, the regulations thereunder, the Articles, the By-Laws or otherwise and such waiver or abridgement, whether given before or after the meeting or other event of which notice is required to be given shall cure any default in the giving or in the time of such notice, as the case may be. Any such waiver or abridgement shall be in writing except a waiver of notice of a meeting of shareholders or of the board or of a committee of the board which may be given in any manner.

Made by resolution of the Company on October 1, 1999.

Handwritten signature and initials, possibly 'S.M.' and 'W.P.', located in the lower right quadrant of the page.

SCHEDULE C

LICENCE

TO SUPPLY ELECTRICITY FOR PUBLIC PURPOSES

GRANTED TO

GUYANA POWER & LIGHT, INC.

UNDER

SECTIONS 4 AND 42 (3) (c) OF THE ELECTRICITY
SECTOR REFORM ACT 1999 (NO. 11 OF 1999)

ISSUED EFFECTIVE
OCTOBER 1, 1999

1. Grant of Licence. The Minister with responsibility for the electricity sector (the "Minister"), in the exercise of the powers conferred on him by sections 4 and 42 (3) (c) of the Electricity Sector Reform Act, No. 11 of 1999, and of all other powers exercisable by him for that purpose, hereby grants to Guyana Power & Light, Inc. (the "Licensee") a Licence, for the period specified in paragraph 5 and subject to the terms and conditions specified herein and in the Schedules hereto, to supply electricity for public purposes in the area set forth in paragraph 2 (the "Authorised Area"), and authorises the Licensee to perform all or any of the following activities and services throughout the Authorised Area:
 - (a) the generation of electricity, except the generation of electricity through hydropower;
 - (b) the transmission, distribution, storage, furnishing and sale of electricity;
 - (c) the purchase of electricity in accordance with power purchase agreements between the Licensee and independent power producers;
 - (d) the supply, erection, maintenance, repair, removal, replacement and operation of meters, electric lines and other electric apparatuses, installations and facilities necessary to carry out the activities and services authorised by this Licence;

*Spencer
hp*

- (e) the use or rental of the Licensee's structures, wayleaves, easements, rights-of-way and other facilities for running or operation of telecommunications lines or other purposes.
2. **Authorised Area.** The Authorised Area shall consist of the Co-operative Republic of Guyana ("Guyana") including its territorial waters and lands and structures lying therein, but shall not include:
- (a) the Linden/McKenzie area currently being served by the Linden Electricity Co-operative and Linden Mining Enterprises Limited until such time as the Licensee acquires the assets and takes over the supply of electricity from such suppliers pursuant to paragraph 14(b); or
 - (b) any areas which are the subject of a licence granted by the Minister to another public supplier in accordance with paragraph 18 until such time as the Licensee should re-assume responsibility for any such area pursuant to paragraph 18; or
 - (c) any area which as of the Effective Date is being served by another supplier who is operating transmission and distribution facilities which are not interconnected with the generation, transmission and distribution facilities of the Licensee, provided that such supplier has obtained an exemption in an order from the Minister in accordance with section 3(3) of the Act, which order will include the requirements contained in paragraph 14(a). Any such area shall automatically become part of the Authorized Area upon the acquisition of such other suppliers' assets in accordance with paragraph 14 (a).
3. **Governing Laws.** Except to the extent expressly varied herein, this Licence is subject to --
- (a) the Electricity Sector Reform Act, No. 11 of 1999 (the "Act");
 - (b) the Public Utilities Commission Act, No. 10 of 1999 (the "PUC Act");
 - (c) the Guyana Energy Agency Act, No. 31 of 1997;
 - (d) the Environmental Protection Act 1996, No. 11 of 1996;
 - (e) any other applicable law or regulation of Guyana,
- and to the terms and conditions set forth in the Schedules to this Licence which are incorporated into and are a part of this Licence. Unless specified otherwise, terms defined in the Act have the same meaning when used herein.
4. **Effective Date** The effective date of this Licence shall be October 1, 1999 (the "Effective Date").



5. Terms of Non-Exclusivity/Exclusivity and Term of Licence. This Licence --
- (a) with respect to the activities and services set forth in paragraph 1 (a), and subject to paragraph 15, shall be a non-exclusive licence within the Authorised Area from the Effective Date until 11:59 p.m. on the day which is twenty-five (25) years after the Effective Date; and
 - (b) with respect to the activities and services set forth in paragraphs 1 (b), (c), (d) and (e), and subject to paragraph 18, shall be an exclusive licence within the Authorised Area from the Effective Date until 11:59 p.m. on the day which is twenty-five (25) years after the Effective Date,
- unless extended in accordance with paragraph 7.
6. Modification. The terms and conditions of this Licence are subject to modification or amendment in accordance with section 13 of the Act.
7. Extensions. At any time after the end of the fifteenth year of the term of this Licence, and prior to the end of the twenty-fourth year, the Licensee may apply to the Minister for an extension of the term of this Licence. Within 120 days after receipt of such application, the Minister shall notify the Licensee of the Government's willingness to negotiate an extension of the term of this Licence. Provided that the Licensee is not in material breach of the terms of the Licence, the Minister shall extend the Licence for a period not to exceed fifteen years beyond its prior term upon terms and conditions acceptable to the Minister and the Licensee and in accordance with the procedures set forth in Section 14 of the Act. If the Minister is unwilling to extend the term, or is unable to agree with the Licensee upon acceptable terms for an extension, this Licence shall continue in force to the end of the existing term, unless terminated earlier by revocation in accordance with paragraph 8 hereof.
8. Revocation.
- (a) Subject to the procedures and criteria set forth in the Act, the Minister may, acting reasonably, revoke this Licence upon the following grounds:
 - (i) any ground set forth in section 16 (1) of the Act (except the ground set forth in section 16 (1) (b), which applies to the supply of electricity for private purposes);
 - (ii) a material violation of the laws and regulations set forth in paragraph 3.
 - (b) The mechanism for revocation set forth in this paragraph and section 16 of the Act and the purchase of the undertaking of the Licensee under paragraph 9, and the Licensee's obligations under paragraph 9 (b), shall be in lieu of the powers of the



Commission under section 68 of the PUC Act and of the Commission and the High Court under section 69 of the PUC Act, and those sections of the PUC Act shall not apply to the undertaking of the Licensee.

- (c) Notwithstanding the authority of the Minister to suspend a licence as an alternative to revocation pursuant to the Act and the PUC Act, this Licence shall not be suspended.

9. Sale to the Government or Its Designee upon Termination or Revocation.

- (a) Where the Minister declines to extend the term of this Licence pursuant to paragraph 7 or revokes this Licence pursuant to paragraph 8 or Section 16 of the Act, and where any appeal of the Minister's decision under the Act has been finally determined confirming the Minister's decision, the Government, or its designee, shall purchase the undertaking of the Licensee under the procedures set forth in, and at a price to be determined in accordance with, subparagraphs (c) through (g) below.
- (b) Pending the determination of a purchase price for the Licensee's undertaking in accordance with this paragraph, the Government may by written notice to the Licensee, require the Licensee to deliver, and thereupon the Licensee shall deliver, on the date specified in such notice, its undertaking, including all works, to the Government, or its designee. If the Government does not require the Licensee to deliver its undertaking, the rights and obligations set forth in this Licence shall be deemed to remain in full force and effect, and the Licensee shall continue to supply electricity as required herein, until such time as the purchase price is paid in full by the Government, or its designee, to the Licensee as provided for in subparagraph (g).
- (c) Not later than 180 days prior to the end of the term due to non-extension, or within 10 days after the Minister's or, if applicable, the Court's decision referenced in subparagraph (a), above, the Government, or its designee (as the case may be), and the Licensee shall agree upon an independent and qualified valuator (the "Valuator") to determine the fair market value of the Licensee's undertaking.
- (d) Within 10 days after the deadline in subparagraph (c), if the Government, or its designee, and the Licensee have not agreed upon the selection of the Valuator, the Government, or its designee, and the Licensee shall each appoint an independent and qualified arbitrator, and the two arbitrators so appointed shall, within 20 days of their appointment, appoint a third arbitrator, who shall act as the Chairman of the arbitration panel. If one party fails to appoint an arbitrator within 20 days of becoming required to do so, the arbitrator selected by the other party shall act as the sole arbitrator for the purposes of selecting the Valuator. In case the two arbitrators cannot agree upon the appointment of a third arbitrator, the third



arbitrator shall be appointed by the Chancellor of the Judiciary within 20 days of being entitled to do so. The arbitration panel or sole arbitrator, as the case may be, shall appoint the Valuator within 30 days of being appointed. The decision of the arbitration panel or sole arbitrator shall be final and binding upon the Government, or its designee, and the Licensee. A majority decision of the arbitration panel is required to appoint the Valuator. The reference to arbitration in this paragraph shall be deemed to be a submission within the meaning of the Arbitration Act, which, except as expressly varied by this paragraph, shall apply to such arbitration. The situs of the arbitration shall be Guyana, and the governing law of the arbitration shall be the law of Guyana.

- (e) For purposes of this paragraph, fair market value means, and shall be determined by the Valuator as, the value of the net assets sold, whether of the various equity shares of the undertaking or of the undertaking itself, in an open and unrestricted market immediately prior to the Minister's service of notice of the revocation or non-extension of the Licence, and determined without reference to any minority or controlling interests that may exist, and without reference to the non-extension or revocation of the Licence, so as to provide a comprehensive value determined with reference to the capitalization of future earnings of the undertaking as a going concern, or with reference to the net fair value of all assets and liabilities of the undertaking, whichever is greater.
- (f) Within 90 days of the selection or appointment of the Valuator, the Valuator shall prepare and submit to the Government, and, if applicable, its designee, and to the Licensee a report on the fair market value of the undertaking of the Licensee (the "Report"), which Report shall be prepared in accordance with subparagraph (e) and shall determine the purchase price to be paid in U.S. dollars by the Government, or its designee, to the Licensee for the undertaking of the Licensee.
- (g) Within 120 days of the submission of the Valuator's Report, the Government, or its designee, shall pay the purchase price as determined by the Valuator in full in U.S. dollars, and, if the Government has required the Licensee to deliver its undertaking to the Government or its designee as provided in subparagraph (b), plus interest at a rate per annum equal to the prime lending rate charged for loans in United States dollars in Guyana by the Bank of Nova Scotia in Guyana, plus one percent (1%), from the date of such delivery to the date of payment of the purchase price. In the event that the Bank of Nova Scotia does not have an office in Guyana at the time that the Government has required the Licensee to deliver its undertaking to the Government or its designee, the prime lending rate for loans in United States dollars in Guyana of another prominent Canadian, United States or International bank or other bank selected by the Minister and the Licensee with an office in Guyana shall be utilised for the calculation of interest payable to the Licensee under this subparagraph.

- (h) The reasonable expenses incurred in determining the fair market value of the undertaking of the Licensee, including the costs of any arbitration under subparagraph (d) and the costs of preparing the Valuator's Report, shall be borne by the Government, or its designee (as the case may be), and the Licensee equally.
 - (i) Any dispute or difference regarding the matters provided for in this paragraph (other than a dispute concerning the appointment of a Valuator) shall be determined by arbitration in the manner provided in section 64 (2) of the Act.
- 10. Duty to Provide a Universal Supply of Electricity within the Authorised Area. Subject to section 24 of the Act and recognising the need to protect consumers from undue rate increases as a result of the cost of new services, the Licensee shall provide a supply of electricity to every person who requests such supply, which supply shall be made available in accordance with the Licensee's Standard Terms and Conditions, including any requirements therein (and in the Third Schedule of the Act) for a security deposit or customer contribution, and (as to any matter not included in the Standard Terms and Conditions) the Third Schedule of the Act.
- 11. Standard Terms and Conditions. The Standard Terms and Conditions attached hereto as the Fourth Schedule shall be in lieu of sections 22, 23 and 26 (4) and the Third Schedule of the Act as to all matters included in the Standard Terms and Conditions. The Standard Terms and Conditions may be amended from time to time by the Licensee with the prior approval of the Commission.
- 12. Rates.
 - (a) From the Effective Date to January 1, 2001, the headline rates and the actual rates to be charged by the Licensee to consumers for the supply of electricity and for services shall be those determined in accordance with the Second Schedule of the Act.
 - (b) After January 1, 2001, the First Schedule of the Act and the First Schedule of this Licence shall govern the rates for the supply of electricity and for services at any time charged and to be charged by the Licensee, and the mechanisms, formulae, principles and procedures whereby such rates shall be calculated and determined for all purposes under the Act and the PUC Act.
 - (c) Subsequent to the implementation of the rate re-balancing between consumer categories effected through the operation of the Second Schedule of the Act, but subject to the approval of the Commission, the Licensee shall have the right to review and amend the rates for the supply of electricity and for services in order to ensure that, in the long term, the rates are consistent with the economic cost of service to each class of consumers (the "full economic rates"). Any such amendments proposed by the Licensee will: (i) be based on implementation in a



transitional manner over a reasonable period which allows rates to be increased or decreased to full economic rates; (ii) after January 1, 2001, any such increases will be subject to a 5% maximum increase for any consumer or class of consumers in any one year over and above any general increase or decrease in rates resulting from the application of the First Schedule of this Licence; (iii) reflect a principle of gross revenue neutrality, such that the rate adjustments to achieve full economic rates will be designed to result in the same annual gross revenue for the Licensee from all rate categories collectively as would have been the case if only the general increase or decrease in rates resulting from application of the First Schedule of this Licence had been implemented; and (iv) be supported by the results of a cost of service and rate design study prepared by an independent consultant, which consultant shall be chosen by the Commission from a list of three internationally recognized consultants with experience in such matters, which list shall be provided to the Commission by the Licensee, and the Licensee shall bear the cost of the independent consultant's preparation of the study, and such costs shall be included in the Licensee's allowable expenses for rate-setting purposes.

- (d) For purposes of implementing any transitional rates charged to consumers in areas that are newly brought into the Authorized Area, the Licensee shall not be required to charge a rate to any such consumers or class of consumers for any service provided by the Licensee that is uniform with the rates charged by the Licensee to consumers or classes of consumers to which the Licensee is already providing electricity; provided, however, that the Licensee shall not charge a rate to any consumer or class of consumers which is unduly preferential or discriminatory. The Licensee and the Government shall enter into mutually acceptable agreements for cases in which such transitional rates are to be charged by the Licensee, including transitional subsidies (if any) that may be provided by the Government pending the transition to charging the new consumers the rates determined in accordance with this Licence and the Act.
- (e) The Licensee shall have the right to establish new rates for the attraction or retention of any one consumer or class of consumers provided that the new rates shall not be less than the Licensee's marginal cost of supply. Any such agreements or rates shall require the prior approval of the Commission pursuant to section 29 of the Act, which approval shall not be unreasonably withheld. If the Licensee requests approval of any such agreement or rate and the Commission does not grant its approval, or if the Commission grants its approval of a modified version unacceptable to the Licensee, the Licensee may retract the request, and there will be no change to the previously existing rates.

13. **Billing.** Notwithstanding section 51 of the PUC Act, the Licensee's frequency of billing shall be as provided in the Fourth Schedule to this License.



14. Acquisition of Assets of Other Suppliers: Power Purchase Agreement with Linden Power Company, Inc.: Supply of Electricity by Other Suppliers.

- (a) Where the Minister has issued an exemption order to another supplier as described in paragraph 2(c), the Licensee shall negotiate in good faith with such supplier to acquire the transmission and distribution assets at fair market value with a view to taking over that supplier's transmission and distribution activities. Pending the Licensee's acquisition of such assets and its assumption of such transmission and distribution activities, those suppliers may continue providing the transmission and distribution services that they were providing prior to the issuance of this Licence. It shall be a condition of any exemption order issued by the Minister to any such supplier, that the Licensee shall have a right of first refusal with respect to any proposed transfer, sale, assignment or other disposition of the transmission and distribution assets of such supplier which are used to supply electricity to other consumers.
- (b) Within 24 months after the Effective Date, the Licensee shall acquire the assets required for the transmission, distribution and supply of electricity in the Linden/McKenzie area currently being served by the Linden Electricity Co-operative (the "Co-operative") and Linden Mining Enterprises Limited ("Linmine"). The terms of the acquisition of such assets shall be as agreed between the Licensee and each of the Co-operative and Linmine. If, within 15 months after the Effective Date, the Licensee and the Co-operative and/or Linmine have not reached agreement on the terms of the acquisition, an independent valuator will be jointly appointed by the Licensee and the Co-operative and/or by the Licensee and Linmine. If, within the thirty-day period following the end of the fifteen month period referred to in the foregoing sentence, the Licensee and the Co-operative and/or the Licensee and Linmine cannot agree on an independent valuator, the Minister shall, within a further thirty-day period, appoint a qualified, independent valuator. The independent valuator will determine a reasonable price for the assets of the Co-operative and/or Linmine required for the Licensee's transmission, distribution and supply of electricity in the Linden/McKenzie area and the other terms of the acquisition. The Licensee will have the option of offering to purchase at the price and on the other terms determined by the independent valuator, or declining to do so. If the Licensee makes a purchase offer based on the price and other terms determined by the independent valuator, and the Co-operative and/or Linmine accept that offer, the Licensee's purchase of the assets will be concluded on those terms. If the Co-operative and/or Linmine decline the Licensee's offer, or if the Licensee declines to make an offer on the terms determined by the independent valuator, the Licensee will forfeit the Linden/McKenzie area and the rest of Region 10 as part of the Authorised Area, and the Co-operative and/or Linmine will be free to sell their transmission, distribution and other supply assets to another public supplier at the same or a higher price as the price determined by the independent valuator. If the Co-



operative and/or Linmine cannot conclude a transaction with another public supplier at the same or a higher price for the assets, then negotiations may be reopened with the Licensee for its purchase of the Co-operative's and/or Linmine's assets.

- (c) As provided in section 47 of the Electricity Sector Reform Act 1997 and section 47 of the Act, the Minister has granted a licence to the Linden Power Company Inc. ("LPC") for the Linden Generation Facilities. Prior to or concurrent with the Licensee's acquisition of the transmission and distribution assets from the Cooperative and Linmine as provided in subparagraph (b), the Licensee shall enter into a power purchase agreement with LPC provided that the terms and conditions of the power purchase agreement are acceptable to the Licensee and LPC and are approved by the Public Utilities Commission (the "Commission").
- (d) The rates to be charged by the Licensee to consumers in the Linden/McKenzie area shall be based on the rates in effect at the time determined in accordance with this Licence and the Act, provided that the Government may choose to provide a transitional subsidy through a separate agreement with the Licensee.
- (e) The Licensee's rights hereunder are subject to section 4 (1) (b) of the Act.
- (f) It shall be a condition of any license or exemption issued to a private supplier under, respectively, section 4 or section 3 of the Act, which license or exemption permits the private supplier to supply electricity to any other person, that at such time as the Licensee may extend the supply of electricity to such other persons, such private supplier shall cease supplying electricity to such other persons.

15. Generation of Electricity.

- (a) The Licensee is authorised to purchase electricity from independent power producers for resale to the public, provided that the terms of the power purchase agreements between such independent power producers and the Licensee have been approved by the Commission and such independent power producers are licensed to generate electricity for sale to a public supplier under section 4 (1) (c) of the Act.
- (b) Notwithstanding section 48 of the Act, during the first five years after the Effective Date the Minister's consent shall only be required prior to the Licensee's installation of any new or replacement generation capacity of a size greater than 25 megawatts. After the first five years, the Minister's consent shall only be required prior to the Licensee's installation or replacement of any new or replacement generation capacity of size greater than 25 megawatts. For greater certainty, the exercise of the discretion of the Minister under section 48 of the Act in relation to

any installation of new or replacement generation capacity which requires consent shall be limited to a consideration of the national energy policy of Guyana.

- (c) Notwithstanding section 20 (2) of the Act, the Licensee shall not be required to facilitate competition in the generation of electricity during the first five years after the Effective Date, but during such five-year period the Licensee shall use good faith efforts to add to and/or replace generation capacity in the system in accordance with the provisions of subparagraphs (d) and (e). After the initial five-year period, the Licensee shall facilitate competition through a transparent international bidding process for any capacity additions and replacements of a size larger than 10 megawatts; except that if requested by the Licensee the Minister may waive this requirement on a case by case basis, acting reasonably, with respect to proposed capacity additions or replacements which are larger than 10 megawatts and up to 20 megawatts. The structure and process for the transparent international tender process shall be developed and carried out by the Licensee acting reasonably and in good faith, unless the Licensee wishes to participate as a bidder in such tender, in which case a structure and process shall be developed and agreed upon by the Minister and the Licensee, both acting reasonably and in good faith. If the Minister and the Licensee are unable to agree, the Licensee shall not participate as a bidder in the tender.
- (d) The development of the Amaila Falls and/or the Tumatumari hydro-power project(s) by, respectively, Synergy Holdings/Harza International Development Company and/or Tumatumari Hydropower, Inc. pursuant to the letters of intent dated, respectively, April 24, 1998, and March 1998, between the Government and such respective parties shall not be subject to the competitive bidding procedures set forth in subparagraph (c) (but, for avoidance of doubt, shall be subject to the criteria and evaluation standards set forth in such letters of intent). If a licence is granted to either of the respective parties for development of the Amaila Falls and/or the Tumatumari hydro-power project(s), the Licensee shall enter into power purchase agreements with such respective parties, provided that such power purchase agreements meet the criteria set forth in subparagraph (e) (i) - (v) and have been approved by the Commission.
- (e) The Licensee shall enter into power purchase agreements with independent power producers licensed under the Act, including the Guyana Sugar Corporation, for additions of generation capacity to the system, provided that such independent power producers generate electricity from alternative forms of energy using renewable resources and provided that such power purchase agreements:
 - (i) are on terms and conditions that are acceptable to the Licensee and that are approved by the Commission, and once approved the payments thereunder shall be allowed for inclusion in the Licensee's operating expenses for the

whole of the term of the power purchase agreement in accordance with the First Schedule to this Licence;

- (ii) reflect the principle that the purchase price payable by the Licensee to the independent power producer shall not be greater than the Licensee's marginal cost of electrical energy production, including the Licensee's adjustments to reflect:
 - (A) incremental losses and other capital and operating expenses associated with the inclusion of the independent power producer in the Licensee's system;
 - (B) the term of the agreement; and
 - (C) the expected reliability of supply from the independent power producer's facility;
- (iii) allow for the economic, orderly and efficient development of the resources of Guyana;
- (iv) are compatible with the national energy policy of Guyana; and
- (v) will not cause undue hardship on the Licensee's consumers.
- (e) Notwithstanding anything else in this paragraph, the Licensee shall not be required to grant access to its own generation facilities for expansion or operation by other parties.

16. Operating Standards and Performance Targets. The Licensee shall use its best efforts to implement, achieve and maintain the Operating Standards and Performance Targets in accordance with the Second Schedule of this Licence, as may be amended from time to time with the prior approval of the Minister. The Licensee's compliance with such standards and targets shall be deemed to satisfy all such requirements under the Act and the PUC Act as to the matters included in the Operating Standards and Performance Targets, and there shall be no requirement for approval by the Commission of the Operating Standards and Performance Targets attached as the Second Schedule or as amended from time to time with the prior approval of the Minister.

17. Development and Expansion Programmes.

- (a) The initial Development and Expansion Programmes of the Licensee shall be as set forth in the Third Schedule of this Licence, as amended and expanded upon on an annual basis in accordance with the procedure set forth in subparagraph (b). The Licensee's compliance with such development and expansion programme, as

attached as the Third Schedule and amended on an annual basis with the approval of the Minister, shall for all purposes be deemed to satisfy the requirements for a development and expansion programme under the Act and the PUC Act, including any requirements for approval by the Commission.

- (b) The Licensee shall, no later than sixty days prior to the end of each of its financial years, submit three copies of its annual development and expansion programme and a current version of its five-year development and expansion programme, as approved by the Licensee's Board of Directors and containing the information required by section 38 (2) of the Act, to the Minister for approval. The Minister, acting reasonably, shall consider such development and expansion programmes and, within sixty days of their submission to him, approve, reject, or require modifications in the programmes. In considering the programmes, the Minister shall take into account:
- (i) the benefits to be accrued to consumers of the service rendered by the Licensee as a result of the implementation of the programmes;
 - (ii) the reasonableness of the cost and other terms and conditions of the financing arrangement for the programmes;
 - (iii) the need to maintain the balance between the Licensee's growth plans, its approved operating standards and performance targets, and the need to preserve its financial integrity, in accordance with commercially reasonable practices of North American or European electric utilities,

and may seek the views of the Guyana Energy Agency (the "Agency"), provided that such views are sought and obtained from the Agency in sufficient time for the Minister to make his determination within the sixty days provided above. The Licensee shall submit seven copies of each development and expansion programme approved by the Minister to the Commission within ten business days after the approval

- (c) During the course of its implementation of approved development and expansion programmes, the Licensee may make amendments to the programmes as provided for in section 38 (5) of the Act and, prior to making any such amendment, shall provide the Minister with an explanation of, and relevant information and data on, such amendment. The Minister's approval of any such amendment shall not be unreasonably withheld and, in the case of an amendment under section 38 (5) (a) of the Act, shall be granted or denied within twenty-four hours of such notification, and shall be deemed to be granted if no response is received within that time. The Licensee shall provide the Commission with seven copies of any amendment to its development and expansion programmes as approved by the

Minister within ten business days after the approval, but the permission of the Commission shall not be needed for any such amendment.

18. **Rural Electrification.** Subject to the Standard Terms and Conditions attached as the Fourth Schedule to this Licence, the Minister may request the Licensee to implement rural electrification programmes from time to time for any premises or geographical area within the Authorised Area, and upon receipt of such a request the Licensee shall give due consideration to any such request and shall negotiate in good faith the terms and conditions of such rural electrification programmes, including the provision of Supplemental Funding (as defined in the Standard Terms and Conditions) and the associated increased investment on the part of the Licensee in the relevant supply facilities:

Provided that the Licensee may not unreasonably reject terms and conditions proposed by the Minister; and

Provided further that if the Government and the Licensee cannot agree on terms and conditions within one hundred and eighty days of the commencement of negotiations on a rural electrification programme, the Government may conclude an agreement on the same terms and conditions proposed to the Licensee for such programme with another public supplier, and if an agreement is concluded with another public supplier and a licence issued to him, it shall be a condition of such agreement and licence that:

- (a) the tariffs charged by such other public supplier shall be no more than the tariffs charged by the Licensee to each class of consumers to which the Licensee supplies electricity; and
- (b) upon expiry and non-renewal, early termination, revocation, or proposed transfer or assignment of the licence issued to the other public supplier for such programme, the Licensee shall have the right of first refusal, in the place of the Government, to purchase the undertaking of the other public supplier in respect of such programme in accordance with the procedures set forth in section 19 of the Act, which shall apply mutatis mutandis to the Licensee's purchase of such undertaking from the other public supplier.

For purposes of this proviso the term "same terms and conditions" shall mean terms and conditions which, taken as a whole, are no more favorable than the most favorable terms and conditions offered by the Government to the Licensee.

19. **Exemption from assessments under section 65 of the PUC Act.** For calendar years 1999 and 2000, the Licensee shall not be subject to any assessment for expenses or any other assessment by the Commission pursuant to sections 65 (1) and (3) of the PUC Act.

20. Way-leaves Easements and Rights-of-Way. In addition to the way-leaves, easements and rights of way transferred to the Licensee in the Vesting Order issued by the Minister to the Licensee pursuant to Section 42(4) of the Act --
- (a) The Licensee shall enjoy, at no charge to it, such easements, way-leaves and rights-of-way across lands owned by the Government or any local Government authority, or any entity owned or controlled by the Government or any local Government authority, and access thereto, as may be necessary for the Licensee to carry out the activities authorised in this License.
 - (b) The Licensee shall have the rights and obligations for the placement, construction, inspection, maintenance, and repair of electrical installations on or across lands owned by private persons as provided for in section 42 (12) of the Act.
21. Joint Use of Facilities. The Licensee shall not be required to permit the joint use of its facilities unless the arrangements for such joint use are on terms and conditions acceptable to the Licensee.
22. Export Import or Exchange of Electricity. The Licensee shall not make any export, import or exchange of electricity with a supplier or producer outside of the Authorised Area without the prior consent of the Minister.
23. Local Supplier Program: Competitive Sourcing. The Licensee shall design and implement a supplier development program (the "Local Supplier Program"), the objective of which shall be to identify, develop, promote and provide preference to local suppliers of goods and services where such local goods and services are of competitive price (on a delivered and installed basis), quality and availability to it as goods and services available from foreign sources. Subject to such requirement, the Licensee shall have the right and the obligation to source competitively all goods and services required for its operation, including fuel.
24. Operation of Business. The Licensee shall operate its business in accordance with commercially prudent business practices of well-managed electric utilities in North America or Europe, as applicable to and appropriate for Guyana.
25. Forms of Accounts. Notwithstanding section 48 of the PUC Act, the Licensee shall not be subject to the Commission's rules regarding forms of account, but shall maintain accounts accurately and faithfully and in a form and manner satisfactory to its outside auditors and to the independent firm of accountants appointed pursuant to paragraph 11 of the First Schedule of the Act, which accounts shall be kept in accordance with accepted accounting principles as defined in the First Schedule of this Licence.
26. Form for Reporting by Self-Generators. Prior to making available or disseminating the form on which self-generators are required to report to the Minister and the Licensee



under section 3 (4) of the Act, the Minister shall obtain the Licensee's approval for the form and content of such form.

27. Conditions pursuant to section 12 of the Act

- (a) (i) The Licensee shall not, without the prior consent in writing of the Minister, acquire, by purchase or otherwise, the licence or the business of, or for the purpose of supplying electricity, associate itself with, any person supplying, or intending to supply, electricity under any other licence;
- (ii) Before applying for such consent, the Licensee shall give not less than one month's notice of its intention to apply for such consent to the Guyana Energy Agency, and the Agency may present its views, orally or in writing, to the Minister on the proposed acquisition or association within thirty days of the Licensee's notice.

Provided that nothing in these conditions shall be construed as requiring the consent of the Minister for the purchase of electricity by the Licensee from an independent power producer licensed under the Act to sell electricity to the Licensee.

- (b) The Licensee shall not assign or encumber this Licence, or transfer, or divest itself of, its rights or obligations hereunder, or any part hereof, without the prior consent in writing of the Minister, which consent shall not be unreasonably withheld.
- (c) The Licensee may not, without the prior consent in writing of the Minister, lend funds or give credit to any of its officers or directors or to any company (except a public supplier subject to the regulatory powers of the Minister) if such company holds, directly or indirectly through any chain of ownership, ten percent or more of the voting stock of the Licensee or renders any managerial, supervisory, engineering, legal, accounting or financial service to the Licensee, by:
 - (i) becoming surety, guarantor or endorser upon any obligations, contingent or otherwise, of such officer, director or company;
 - (ii) loaning funds, securities or other like assets to such officer, director or company;
 - (iii) purchasing in the open market, or otherwise, any obligation upon which the officer, director or company may be liable solely or jointly with others;

Provided that it shall not be a violation of this subparagraph for the Licensee to provide housing loans to, or pay other expenses of, officers of the Licensee who are hired or retained by the Manager where the Licensee's provision of such loans and payment of

such expenses are authorised under the Management Agreement between the Licensee and Americas and Caribbean Power Limited dated October 1, 1999.

- (d) Any agreement relating to any transaction of the nature described in this paragraph, unless made with or subject to the written consent of the Minister, shall be void.
 - (e) Unless otherwise provided by the Minister in writing, this paragraph shall extend to the renewal or extension of agreements existing on the Effective Date.
28. Other Necessary Authorised Activities and Services. In addition to the activities authorised under paragraph 1, the Minister authorises the Licensee to act and to perform such other activities and services as may be necessary for the purposes of exercising its rights, fulfilling its obligations and performing the activities and services authorised under this Licence.
29. Confirmation of Applicability of the Act. It is confirmed that the Licensee shall have all of the powers conferred by the Act and regulations promulgated thereunder upon persons licensed to supply electricity for public purposes for the purpose of exercising its rights and performing its functions under this Licence.
30. Exclusivity. The exclusivity granted in paragraph 5 (b) shall be exclusive as against the Government
31. Licence Fees. The Licensee shall pay to the Minister, on behalf of the Government of Guyana (the "Government") and for deposit into the Consolidated Fund, the following sums at the times stated --
- (a) an initial payment of U.S. \$ 20,000 (United States dollars twenty thousand) upon issuance of this Licence; and
 - (b) a fee of U.S. \$ 20,000 (United States dollars twenty thousand) upon any extension of the term of this Licence.
32. No Waiver. The failure of the Minister to insist upon strict performance of any obligation of the Licensee under this Licence shall not be construed as, and shall not constitute, a waiver of the Minister's right to demand strict compliance therewith, nor shall a waiver of any one event of default be construed as a waiver of any other event of default.
33. Consent of the Minister. Where the consent of the Minister is required under the terms of this Licence or the Act, such consent shall not be unreasonably withheld.
34. Governing Law. This Licence shall be governed by the laws of Guyana.

35. Conflicts. In the event of any conflict or inconsistency between the terms of this Licence and any other law or regulation of Guyana, the terms of the Licence shall prevail.

Dated and effective as of this 1st day of October, 1999, and executed in the exercise of the powers conferred by sections 4 and 42 (3) (c) of the Act and all other powers exercisable for such purpose

Hon. Samuel A. Hinds, Prime Minister and
Minister with Responsibility for the Electricity Sector



SCHEDULE D - QUADRIpartite AGREEMENT

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AGREEMENT

Between and Among the Members Of The Quadripartite Group On Electricity Tariffs For The Period 1999-2000 And Thereafter

THIS AGREEMENT is made this 4th day of December, 1998, by and among the members of the Quadripartite Group, namely (1) the Guyana Trades Union Congress, (2) the Guyana Consumers Association, (3) the Private Sector Commission, and (4) the Government of the Co-operative Republic of Guyana (the "Government") (collectively referred to as the "Members").

(A) Background

The Quadripartite Group was established by its Members to reach agreement on the electricity tariffs, both fixed charges and energy charges, to be charged to consumers, for the period calendar years 1999-2000 and thereafter, by the Guyana Electricity Corporation ("GEC") and subsequently by the "New GEC" (i.e., the new company that will supply electricity in Guyana). This Agreement sets forth the definitive agreements by and among the Members on the levels, and mechanisms for determining, the New GEC's tariffs for calendar years 1999-2000 and thereafter, such that electricity tariff rates, for each class of consumers, should be revised by 31 December 2000 to reflect the full cost of electricity supply to the consumer, including cost of capital. Further, it is the intention that over time such tariff rates should exclude any cross subsidisation between tariff rates charged to different classes of consumer, subject to the establishment of a reasonable lifeline tariff for low usage consumers.

(B) Agreement

The Members acknowledge and agree as follows:

- 1) With effect from 1 October 1998 the published headline tariff rates to be charged to all classes of consumers will increase by 12% over the electricity tariffs of the GEC in effect on 1 January 1998, and, with effect from 1 April 1999, these rates will be increased by a further 9%. Thereafter, with effect from 1 January 2000, the published headline tariff rates will be varied in accordance with the provisions of the mechanism established in the First Schedule of the License to be issued by the Government to New GEC, except that, in respect of the period from 1 January 2000 to 31 December 2000, the confirmation of the Public Utilities Commission ("PUC") shall not be required.
- 2) To facilitate the transition to and manage the impact of cost reflecting tariffs over the period to 31 December 2000, the Government will subsidise the difference between published headline tariff rates and any lower tariff rates actually charged to consumers. Tariff rates actually charged to consumers shall increase from 1 January 1999 to 31 December 2000 on a cumulative basis in accordance with the provisions of this Agreement. In the event that the Government fails to provide such subsidy, actual tariff rates shall revert to the headline tariff rates and such actual rates shall be payable by consumers.



- 3) All electricity bills issued after the date on which any revised tariffs become effective shall be calculated on the basis of electricity consumed in the relevant billing period and shall include: (i) total charges calculated at the headline tariff rate then in effect, (ii) total charges calculated at the tariff rate actually charged to the consumer, being the actual net amount payable by the consumer and (iii) the transitional subsidy provided by the Government which shall be the difference between (i) and (ii).

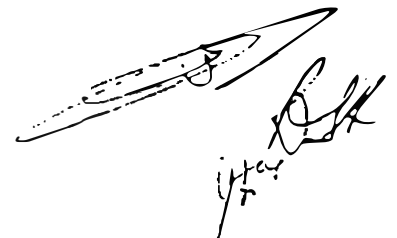
The tariff rates actually charged to consumers will be changed in accordance with the terms of this Agreement, unless the billing system is unable to operate such changes. In which case, GEC/New GEC shall have the ability to implement an alternative programme of changes, e.g, use of quarterly increases in tariff rates.

- 4) In addition to any tariff rate changes referred to in this document, published headline tariff rates and tariff rates actually charged to consumers may vary, up and down, as a result of, for example, changes in fuel prices or exchange rate variations. Rates shall be adjusted to recognize the variation in fuel prices as determined by application of the fuel surcharge adjustment mechanism and changes in exchange rates, in accordance with the License to be issued by the Government to the New GEC.

5) Electricity Tariffs for Calendar Year 1999

- (a) On January 1, 1999, electricity tariff rates actually charged to all classes of consumers will increase by 5% over the electricity tariffs of the GEC in effect on January 1, 1998 except for consumption covered under 5 (c) (i)
- (b) Beginning with February 1, 1999, electricity tariffs actually charged to commercial and industrial consumers will increase by a further 1% per month, effective as of the first day of each of the eleven months (i.e., February 1 through December 1, inclusive) remaining in calendar year 1999.
- (c) Beginning with February 1, 1999, electricity tariffs actually charged to residential consumers will increase by the following rates, in each case effective as of the first day of each of the eleven months (i.e., February 1 through December 1, inclusive) remaining in calendar year 1999.
- (i) For consumption up to 100kWh per month, by a further 1% per month;
- (ii) For consumption above 100kWh per month, by a further 1.5% per month.

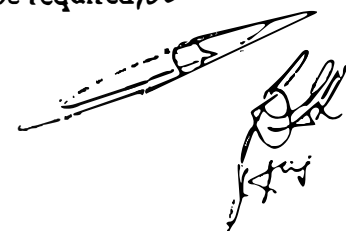
The rates and the increases in rates, provided for in subparagraph (c) (ii), above, shall apply to the totality of electricity taken by a residential consumer that consumes above 100 kWh per month (i.e. to the portion below 100kWh, as well as the portion above 100kWh per month). *Pr*

A handwritten signature and initials, possibly "Pr" and "DJK", are written in the bottom right corner of the page.

- (d) The Government will pay to New GEC a subsidy equal to any shortfall between revenue generated by application of (i) the actual tariffs to be charged to consumers during 1999, as reflected in this paragraph (5), and (ii) the headline tariff rates (i.e., the New GEC tariff rates that are required in accordance with the License to be issued by the Government to the New GEC, and applicable law).
- (e) The Members acknowledge and agree that both the rates actually charged to consumers and the headline tariff rates for calendar year 1999 will be set in applicable law in accordance with this Agreement and the License referenced in the foregoing subparagraph (d), and will not be subject to confirmation by the PUC.

6) Electricity Tariffs for Calendar Year 2000

- (a) On January 1, 2000, electricity tariff rates actually charged to all classes of consumers will increase by an additional 5% over the electricity tariffs actually charged to each respective class of consumers by the New GEC and in effect as of December 31, 1999.
- (b) Beginning with February 1, 2000, electricity tariffs actually charged to all classes of residential consumers will increase by a further 1% per month, effective as of the first day of each of the eleven months (i.e., February 1 through December 1, inclusive) remaining in calendar year 2000.
- (c) Beginning with February 1, 2000, electricity tariffs actually charged to commercial consumers will increase by a further 0.5% per month, effective as of the first day of each of the eleven months (i.e., February 1 through December 1, inclusive) remaining in calendar year 2000.
- (d) For the entirety of calendar year 2000, the electricity tariffs actually charged to industrial consumers will remain at the rate put into effect for such consumers on January 1, 2000, in accordance with paragraph 6 (a), above.
- (e) The Government will pay to New GEC a subsidy equal to any shortfall between revenue generated by application of (i) the actual tariffs to be charged to consumers during 2000, as reflected in this paragraph (6), and (ii) the headline tariff rates (i.e., the New GEC tariff rates that are required in accordance the License to be issued by the Government to the New GEC, and applicable law).
- (f) The Members acknowledge and agree that the rates actually to be charged to consumers for calendar year 2000 in accordance with this Agreement will be set in applicable law, and that the headline tariff rates for calendar year 2000 will be set in accordance with the License to be issued by the Government to the New GEC, and applicable law, except that confirmation of the PUC shall not be required.

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7) Electricity Tariffs for Calendar Year 2001 and Thereafter

The Members acknowledge and agree that the electricity tariffs actually charged to all classes of consumers will, beginning effective January 1, 2001, and continuing thereafter, be equal to the headline rates for each class of consumer and be subject to confirmation by the PUC in accordance with the License to be issued by the Government to the New GEC, and applicable law.

8) Provisions for New Tariffs and Tariff Restructuring

Notwithstanding the foregoing, New GEC shall have the ability to establish new tariff categories and carry out a formal comprehensive review of the structure of consumer tariffs, including a re-evaluation of the 100kWh lifeline benchmark provided for in paragraph 5 (c), in order to ensure a more efficient and equitable allocation of the costs of supply to each consumer category, in accordance with the License to be issued by the Government to New GEC, and applicable law. The changes resulting from the review of the structure of tariffs will be subject to PUC approval.

9) Authorisation and Validity

Each of the undersigned Member representatives represents and warrants to the other Members that he/she is duly authorised and empowered to sign this Agreement and undertake the agreements contained herein on behalf of the Member for which he/she has signed, and that this Agreement is binding upon the Member and its organization for which he/she has executed this Agreement. Neither the Member nor its organization shall support any action against GEC/New GEC, where GEC/New GEC is acting in accordance with the terms of this Agreement and any amendment hereto agreed by the Members.

Guyana Trades Union Congress



Mr. Randolph Kirton

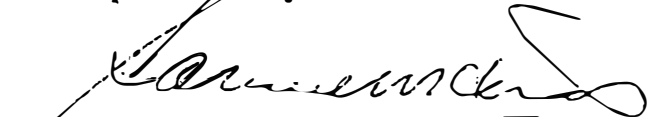
Guyana Consumers Association


Mr. John DaSilva

Private Sector Commission

George Jardim

Government of the Co-operative
Republic of Guyana


Hon. Samuel A. Hinds