

CONFORMED COPY

IDA GRANT NUMBER H155-LA

NTSEP Project Agreement

(Nam Theun 2 Hydroelectric Project - NTSEP)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

NAM THEUN 2 POWER COMPANY LIMITED

Dated April 26, 2005

CONFORMED COPY

IDA GRANT NUMBER H155-LA

NTSEP PROJECT AGREEMENT

THIS NTSEP PROJECT AGREEMENT (the "NTSEP Project Agreement" or this "Agreement") is dated April 26, 2005, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and NAM THEUN 2 POWER COMPANY LIMITED, a limited liability company established under the laws of the Lao People's Democratic Republic ("Lao PDR") with its registered office located in Vientiane ("NTPC");

WHEREAS (A) by the Development Grant Agreement of even date herewith between Lao PDR (the "Recipient") and the Association (the "Development Grant Agreement"), the Association has agreed to make available to the Recipient an amount in various currencies equivalent to thirteen million one hundred thousand, Special Drawing Rights (SDR13,100,000) on the terms and conditions set forth in the Development Grant Agreement, but only on the condition, *inter alia*, that NTPC agree to undertake such obligations toward the Association as are set forth in this NTSEP Project Agreement;

(B) by a tri-partite agreement entered into between the Recipient, through its Ministry of Finance (the "MOF"), Lao Holding State Enterprise ("LHSE") and NTPC (the "Tri-Partite Agreement"), the proceeds of the grant provided for under the Development Grant Agreement will be made available to NTPC on the terms and conditions set forth in Part B of the Annex to Schedule 3 to the Development Grant Agreement and further described in Schedule 3 to this NTSEP Project Agreement;

(C) NTPC, for the purpose of the Project, has represented to the Association that Schedule 4 to the Concession Agreement and the Project Implementation Plan are consistent with, and have been developed with due regard to the findings and recommendations under the Social Development Plan and the Environmental Assessment and Management Plan, and that the Environmental and Social Documents (each of the aforementioned Plans and Documents as hereinafter defined), and all other supporting, detailed analyses and studies from which they are derived, have been prepared and updated by duly qualified consultants and experts in good faith and with due care, and are in compliance with the Applicable Environmental and Social Safeguard Policies and the Environmental and Social Laws; and

(D) NTPC, in consideration of the Association's entering into the Development Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this NTSEP Project Agreement.

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Grant Agreement, the Preamble to this NTSEP Project Agreement and in the General Conditions (as defined in the Development Grant Agreement) have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “Annual Implementation Plan” and “AIP” mean, for each annual period beginning 31 March 2005, a plan reflecting the implementation requirements for that period prepared by NTPC in accordance with paragraph 5 of Schedule 2 to this NTSEP Project Agreement.

(b) “Applicable Environmental and Social Safeguard Policy” or “Guideline” shall have the meaning set out in Schedule 11 to the CTA but shall include the following World Bank Safeguard Policies: (i) OP/BP 4.01 Environmental Assessment (January 1999); (ii) OP/BP 4.04 Natural Habitats (June 2001); (iii) OP 4.09 Pest Management (December 1998); (iv) OPN 11.03 Cultural Property (September 1986); (v) OP/BP 4.12 Involuntary Resettlement (December 2001); (vi) OD 4.20 Indigenous Peoples (September 1991); (vii) OP/BP 4.36 Forests (November 2002); (viii) OP/BP 4.37 Safety of Dams (October 2001); (ix) OP/BP 7.50 Projects in International Waterways (June 2001); (x) OP/BP 7.60 Projects in Disputed Areas (June 2001); in each case valid and in force as at the date of this Agreement, and the “Applicable Environmental and Social Safeguard Policies” and “Guidelines” shall also have the meaning set out in Schedule 11 to the CTA .

(c) “Common Terms Agreement” and “CTA” mean the agreement dated on or about the date hereof among NTPC and the financial institutions in their various capacities (including the IDA Guaranteed Lenders and the Intercreditor Agent) named therein as parties.

(d) “Concession Agreement” means the Concession Agreement dated 3 October 2002, between Recipient and NTPC, as amended by the Nam Theun 2 Concession Agreement First Amendment Agreement dated 3 April 2003, the Nam Theun 2 Concession Agreement Second Amendment Agreement dated 3 July 2003, the Nam Theun 2 Concession Agreement Third Amendment Agreement dated 7 November 2003, the Nam Theun 2 Concession Agreement Fourth Amendment Agreement dated 3 August 2004, and the Nam Theun 2 Concession Agreement Fifth Amendment Agreement dated on or about the date of this NTSEP Project Agreement.

(e) “Dam Safety Review Panel” means the Dam Safety Review Panel established and to be maintained by NTPC pursuant to clause 29 of the Concession Agreement.

(f) “Effective Date” has the meaning given to that term in Section 6.01 of this NTSEP Project Agreement.

(g) “Environmental and Social Document” means: (i) Schedule 4 (Environmental and Social Objectives) to the Concession Agreement; (ii) the PIP; and (iii) a Plan as applicable from time to time, and Environmental and Social Documents means all of them.

(h) “Environmental and Social Laws” means laws and regulations in Laos relating to the environment, human health or safety or laws and regulations relating to social issues including minimum labour standards and laws and regulations prohibiting forced labour or child labour, including: (i) the Constitution of Laos; (ii) the laws of the Recipient (and all of their implementation regulations, where applicable); and (iii) all other international conventions and treaties to which the Recipient is a party and which has been ratified by Recipient and is in full force and effect, to the extent such laws and regulations are applicable to NTPC or the Project.

(i) “Environmental and Social Report” means a report to be provided by NTPC pursuant to Schedule 2 and in accordance with Part5 (Environmental and Social Reports) of Schedule 11 (Environmental and Social Matters) of the CTA.

(j) “Finance Party” has the meaning given to that term in the CTA.

(k) “Financial Close” has the meaning given to that term in the Common Terms Agreement.

(l) “Financial Monitoring Report” means a report in the form agreed between the Association and NTPC prior to the date hereof (as the same may be amended from time to time as agreed between the Association and NTPC).

(m) “Implementation Program” means the detailed program for the implementation of NTSEP as more particularly set out in Schedule 2 to this NTSEP Project Agreement, as the same may be varied or amended from time to time in accordance with this NTSEP Project Agreement.

(n) “Intercreditor Agent” has the meaning given to that term in the Common Terms Agreement.

(o) “Interested Party” has the meaning given to that term in the Common Terms Agreement.

(p) “Lenders’ Technical Adviser” means the advisor to be retained by the Intercreditor Agent to monitor the implementation of the technical, social and environmental aspects of the Project in accordance with the Common Terms Agreement (and referred to in Article 5.02 and Schedule 2 of this NTSEP Project Agreement).

(q) “NTSEP” means Parts B, C, D and E of the Project, also collectively called the Nam Theun 2 Social and Environmental Project.

(r) “Off-scope Report” means any investigation, study, audit, review, report, plan or other analysis with respect to any environmental or social matter pertaining to the Project other than those expressly stipulated in Schedule 11 of the CTA, to be generated by the Lenders’ Technical Adviser outside the scope of the TA’s Mandate.

(s) “Panel of Experts” and “POE” mean the panel of three environmental and social experts established by the Recipient under clause 30.15 (Panel of Experts) of the Concession Agreement to facilitate ongoing independent review of, and guidance to the parties on: (i) mitigation against and remedying of Project Impacts (as defined in the Concession Agreement); (ii) implementation of each of NTPC’s and the Recipient’s environmental and social obligations under Schedule 4 (Environmental and Social Objectives) to the Concession

Agreement; (iii) ameliorating and remedying Unanticipated Project Impacts; and (iv) the appropriateness and relevance of the environmental and social obligations under Schedule 4 (Environmental and Social Objectives) to the Concession Agreement.

(t) “Plan” means an environmental and social plan, set out in the PIP, that the Interested Parties (as defined in the CTA, including the Association) and NTPC have agreed to be developed by NTPC after Financial Close, the contents of which are outlined in the PIP.

(u) “Procurement Plan” collectively means the procurement plan prepared by NTPC and provided to the Association prior to the date hereof, covering the implementation of Parts B (other than Part B.8), C (other than Part C.6), and E.1 of the Project, and for Parts B.8, C.6, D and E.2 prepared by the Recipient, as the same may be updated as required by NTPC for Parts B, C (other than Part C.6) and E.1 from time to time in accordance with the provisions of Section 2.02(b) of this NTSEP Project Agreement.

(v) “Project Implementation Plan” and “PIP” mean the environmental and social implementation plan for the Project for the period starting from March 31, 2005, to be delivered to the Association and other Interested Parties pursuant to Schedule 11 of the CTA and as a condition precedent to a first drawing under the CTA, such PIP including each Plan required to be incorporated into the PIP pursuant to paragraph 6 (Plans) of Part 5 (Covenants) of Schedule 11 of the CTA.

(w) “Project” means the project described in Schedule 2 (Description of the Project) to the Development Grant Agreement.

(x) “SEMFOP” means the Social and Environmental Management Framework and First Operational Plan dated February 2005, adopted by the Recipient under Notification 002 dated February 14, 2005 of the Board of Directors of WMPA, which sets out a strategic framework for the management of the Nam Theun 2 Watershed Area, and to be implemented by WMPA from April 1, 2005 to September 30, 2011, as it may be amended or supplemented from time to time.

(y) “Special Account” has the meaning given to it in the Development Grant Agreement.

(z) “STEA” means the Science, Technology and Environmental Agency of the Recipient, established pursuant to Decree 68/PM dated 21 May 1999.

(aa) “TA’s Mandate” has the meaning given to that term in Part 6 (Monitoring) of Schedule 11 of the CTA.

(bb) “Unanticipated Project Impact” means: (i) any unintended or unforeseen significant and adverse environmental and social impacts in Laos (Project Impacts) that, unintentionally and without negligence on the part of NTPC, should have been addressed by the EAMP or the SDP, but were not; and (ii) had these unintended or unforeseen Project Impacts been known and had they been addressed by the EAMP or the SDP, would properly have been included in the environmental and social activities and obligations of the parties relating to the Project as set out in Schedule 4 (Environmental and Social Objectives) to the Concession Agreement and in the PIP.

(cc) "WMPA" means the Recipient's Watershed Management and Protection Authority established pursuant to Decree 25, and further re-stated in Decree 39, to manage the Nam Theun 2 Watershed Area.

ARTICLE II

Execution of the Project

Section 2.01. (a) NTPC declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Grant Agreement, and, to this end, shall carry out Parts B (other than Part B.8), C (other than Part C.6) and E.1 of the Project with due diligence and efficiency and in conformity with appropriate financial and engineering practices acceptable to the Association as reflected in Section 3.01 of this NTSEP Project Agreement, and social and environmental standards as reflected in the Implementation Program, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required to comply with its obligations under this Section 2.01(a).

(b) Without limitation upon the provisions of paragraph (a) of this Section 2.01 and except as the Association and NTPC shall otherwise agree, NTPC shall carry out Parts B (other than B.8), C (other than C.6) and Part E.1 of the Project in accordance with the Implementation Program.

Section 2.02. (a) Except as the Association shall otherwise agree, NTPC shall procure all goods, works and services required for NTSEP and to be financed out of the proceeds of the Grant made available to NTPC pursuant to the Tri-Partite Agreement. NTPC shall undertake all such procurement in accordance with the provisions of Schedule 1 to this NTSEP Project Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) NTPC shall update the Procurement Plan for NTSEP as required, in accordance with guidelines acceptable to the Association, and promptly furnish such update to the Association for the Association's approval. NTPC shall only update the Procurement Plan in respect of Parts B.8, C.6, D and E.2 if so requested by the Recipient.

Section 2.03. NTPC shall duly perform all of its obligations under the Tri-Partite Agreement. NTPC shall not assign, amend, abrogate or waive the Tri-Partite Agreement or any provision thereof without the Association's consent.

Section 2.04 (a) NTPC shall, at the request of the Association, exchange views with the Association with regard to the progress of the Project, and the performance of its obligations under this NTSEP Project Agreement and under the Tri-Partite Agreement.

(b) NTPC shall promptly inform the Association, in accordance with the Implementation Program, of any condition which interferes or threatens to interfere with the progress of Parts B (other than Part B.8), C (other than Part C.6), and E.1 of the Project or the performance by NTPC of its obligations under this NTSEP Project Agreement and under the Tri-Partite Agreement.

Section 2.05 (a) NTPC shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of Parts B (other than Part B.8), C (other than Part C.6) and E.1 of the Project through adherence to the Implementation Program.

(b) For the purposes of Section 9.06 of the General Conditions and without limitation thereto, NTPC shall:

- (i) prepare, on the basis of guidelines acceptable to the Association and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Association and NTPC a plan for the future operation of the Project; and
- (ii) afford the Association a reasonable opportunity to exchange views with NTPC on said plan.

ARTICLE III

Management and Operations of NTPC

Section 3.01. NTPC shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, engineering and utilities practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. NTPC shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and utilities practices.

Section 3.03. NTPC shall take out and maintain with responsible insurers, appropriate insurance against such risks and in such a manner as specified in Schedule 20 of the Concession Agreement.

ARTICLE IV

Financial Covenants

Section 4.01. (a) NTPC shall establish and maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Association, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Parts B through E of the Project.

(b) NTPC shall:

- (i) have its financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year (or other period agreed to by the Association) audited in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Association), (A) certified copies of the financial statements referred to in paragraph (b)(i) of this Section, for such year (or such other period agreed to by the Association), as so audited, and (B) an opinion on such statements by said auditors, which opinion shall include confirmation that the Grant has been applied towards Eligible Expenditures and the Financial Monitoring Reports are a reliable basis for disbursement, such statements to be in scope and detail satisfactory to the Association; and
- (iii) furnish to the Association such other information concerning such records and accounts and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.

(c) For all Eligible Expenditures with respect to which withdrawals from the Special Account were made NTPC shall:

- (i) retain, until at least one year after the Association has received the audit report for, or covering, the fiscal year in which the last withdrawal from the Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (ii) enable the Association's representatives to examine such records; and
- (iii) ensure that such reports and statements of expenditure are included in the audit for each fiscal year (or other period agreed to by the Association), referred to in paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon NTPC's reporting obligations set out in the Implementation Program, NTPC shall prepare and furnish to the Association a Financial Monitoring Report, in substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Development Grant, and explains variances between the actual and planned uses of such funds;

- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first Financial Monitoring Report shall be furnished to the Association not later than 45 days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, until six months after such time as the Grant has been disbursed in full, each Financial Monitoring Report shall be furnished to the Association not later than 45 days after each subsequent calendar quarter, and shall cover the period not covered by the previous Financial Monitoring Report until the end of the period covered by such report.

Article V

Other Covenants

Section 5.01. NTPC shall by Financial Close (a) deliver to the Association: (i) certified copies of the final issued version of the HCCEMMP; (ii) the PIP; and (iii) a copy of the first Annual Implementation Plan for the period from March 31, 2005 to March 30, 2006; and (b) have entered into the Tri-Partite Agreement, which Agreement shall include the terms and conditions set forth in Schedule 3 to this NTSEP Project Agreement.

Section 5.02. NTPC shall fund, for the benefit of all Finance Parties and other Interested Parties, and under terms of reference acceptable to the Association (as agreed by the Association at or prior to Financial Close), the Lenders' Technical Advisor to be appointed by the Intercreditor Agent for the purpose of monitoring the implementation of the Project.

Section 5.03. NTPC shall fund, (in whole or in part), from the proceeds of the Grant made available to it under the terms of the Tri-partite Agreement, consultant services to be engaged under the Procurement Plan for the implementation of Parts B.8, C.6, D and E.2 of the Project, and all operating costs (as such terms has meaning ascribed to it in paragraph 2(c) of Schedule 1 to the Development Grant Agreement) of EMU under Part B.8 of the Project, RMU under Part C.6 of the Project, and WMPA under Part D of the Project.

ARTICLE VI

Effective Date; Termination; Cancellation and Suspension

Section 6.01. This NTSEP Project Agreement shall come into force and effect on the date upon which the Development Grant Agreement becomes effective and all the documents referred to in Section 5.01 have been delivered to the Association ("Effective Date").

Attention: Chief Executive Officer

Facsimile: + (856-21) 217-420

(d) All documents to be furnished or communications to be given or made under or contemplated by this NTSEP Project Agreement shall be in the English language, or, if in another language, shall be accompanied by a translation into English certified (by a representative of the party making or delivering the same) as being a true and accurate translation thereof, which translation shall be the governing version between the parties.

(e) Any action required or permitted to be taken, and any document required or permitted to be executed, under this NTSEP Project Agreement on behalf of NTPC may be taken or executed by its Chief Executive Officer or such other person or persons as said Chief Executive Officer shall designate in writing; and NTPC shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 7.02 Severability of Provisions

If any provision of this NTSEP Project Agreement is or becomes prohibited, illegal, invalid or unenforceable in any jurisdiction, such prohibition, illegality, invalidity or unenforceability shall not affect or impair the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provisions in any other jurisdiction.

Section 7.03 Amendment

(a) This NTSEP Project Agreement may only be amended, varied or modified in writing signed by the duly authorized representatives of the parties hereto.

(b) No amendments to the Development Grant Agreement (an executed copy of which shall be provided to NTPC prior to or on the date hereof) which have the effect of increasing NTPC's obligations under this NTSEP Project Agreement as at the date hereof shall be binding on NTPC, except to the extent that NTPC has provided its prior written approval to such amendments. Other amendments to the Development Grant Agreement shall only be binding on NTPC once it has received written notice from the Association providing details of such amendments.

(c) Nothing in this NTSEP Project Agreement shall operate as or be construed to constitute a waiver, renunciation or any other modification of any privilege or immunity of the Association under Article VIII of its Articles of Agreement or under any applicable law.

Section 7.04 Execution in Counterparts

This NTSEP Project Agreement may be executed in counterparts and by the relevant parties on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this NTSEP Project Agreement to be signed in their respective names in Vientiane, Lao People's Democratic Republic, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Ian Porter

Authorized Representative

NAM THEUN 2 POWER COMPANY LIMITED

By /s/ B. Tribollet

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. General

A. All goods, works and services (other than consultants' services) shall be procured in accordance with the provisions of Section I of the "Guidelines: Procurement under IBRD Loans and IDA Credits" dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule.

B. All consultants' services shall be procured in accordance with Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

C. The capitalized terms used below in this Schedule to describe particular procurement method or methods of review by the Association of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

Section II. Particular Methods of Procurement of Goods, Works and Services (other than Consultants' Services)

A. International Competitive Bidding

Except as otherwise provided in Part B of this Section, contracts for goods shall be awarded on the basis of International Competitive Bidding. The provisions of paragraphs 2.55 and 2.56 of the Procurement Guidelines, providing for domestic preference in the evaluation of bids, shall apply to goods manufactured in the territory of the Recipient.

B. Other Procurement Procedures

1. National Competitive Bidding. (a) Goods estimated to cost less than \$100,000 equivalent per contract and (b) except as otherwise provided in paragraphs (a) through (f) of this Section II B.1, works, may be procured under contracts awarded on the basis of National Competitive Bidding. The procedures to be followed for National Competitive Bidding shall be those set forth in the Prime Minister Decree No.03/PM dated January 9, 2004, on "Government Procurement of Goods, Construction, Maintenance and Service" and its Implementing Rules and Regulations issued by the Ministry of Finance No.0063/MOF dated March 12, 2004, with the following clarifications required for compliance with the Procurement Guidelines:

- (a) no preference whatsoever will, subject to the requirements of the Concession Agreement, be given to a domestic bidder over foreign bidders or to an State Owned Enterprise ("SOE") over a non-SOE;

- (b) awards shall be made on the basis of the lowest evaluated bid, and any bid award based upon a point system, or any other criteria other than the lowest evaluated bid, shall be deemed invalid;
- (c) bids will not be automatically rejected for lack of effective competition solely on the basis of the number of bidders or because all bid prices substantially exceed the budget allocated;
- (d) SOEs may participate only if they can establish that they: (i) are legally and financially autonomous; and (ii) operate under commercial law. No dependent agency of the Recipient shall be permitted to bid or submit a proposal for the procurement of goods or works under the Project; and
- (e) each contract financed with the proceeds of the Grant shall provide that the suppliers and contractors shall permit the Association, at its request, to inspect their accounts and records relating to the performance of the contract and to have said accounts and records audited by auditors appointed by the Association.

2. Shopping. Goods and works estimated to cost less than \$30,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping. For purposes of improving economy, efficiency and transparency, the following special provisions shall apply to contracts for works or goods estimated to cost between \$5,000-\$30,000 equivalent:

- (a) Invitations to quote shall be advertised in at least one newspaper of provincial/regional (or national) circulation, and a minimum of 10 days for the preparation and submission of quotations shall be provided.
- (b) Prior-registration shall not be a requirement to participate in quotation procedures.
- (c) Quotations shall be required to be submitted in sealed envelopes.
- (d) Quotations shall be opened in public immediately after the submission deadline in the presence of bidders and Project beneficiaries who choose to attend.
- (e) A copy of the quotation opening record shall promptly be posted at a prominent location outside NTPC's office, and a copy will also be sent to all bidders who submitted quotations.
- (f) There shall be no post-bid negotiations with the lowest or any other bidder. In case the lowest evaluated responsive quotation exceeds the pre-bid cost estimate by a substantial margin, NTPC's officer in charge of procurement will assess the reasons for the price difference and recommend the course of action for approval by NTPC's Chief Executive Officer.

(g) A summary of contract award information shall be made public through an announcement in the press and updated on a quarterly basis.

3. Procurement from UN Agencies. Vehicles may be procured directly from the Inter-agency Procurement Services Office of the United Nations, in accordance with the provisions of paragraphs 3.1 and 3.9 of the Procurement Guidelines.

4. Community Participation. Goods, works and services for fisheries, forestry, agricultural and livestock development may be procured on the basis of community participation in accordance with the procedures set forth in the Project Implementation Plan.

Section III. Particular Methods of Procurement of Consultants' Services

A. Quality- and Cost-based Selection. Except as otherwise provided in Part B of this Section, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than \$100,000 equivalent per contract may comprise entirely national consultants.

B. Other Procedures

1. Quality-based Selection. Services for assignments which the Association agrees meet the requirements set forth in paragraph 3.2 of the Consultant Guidelines may be procured under contracts awarded on the basis of Quality-based Selection in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. Least-cost Selection. Services for assignments which the Association agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines may be procured under contracts awarded on the basis of Least-cost Selection in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

3. Selection Based on Consultants' Qualifications. Services estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.

4. Single Source Selection. Services for tasks in circumstances which meet the requirements of paragraph 3.10 of the Consultant Guidelines for Single Source Selection, may, with the Association's prior agreement, be procured in accordance with the provisions of paragraphs 3.9 through 3.13 of the Consultant Guidelines.

5. Individual Consultants. Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the circumstances described in paragraph 5.4

of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis subject to prior approval of the Association.

Section IV. Review by the Association of Procurement Decisions

Except as the Association shall otherwise determine by notice to NTPC, the following contracts shall be subject to Prior Review by the Association: (a) each contract for goods, works and services (other than consultants' services) estimated to cost the equivalent of \$100,000 or more; (b) each contract for goods and/or works procured under National Competitive Bidding; (c) all contracts procured under Direct Contracting; (d) each contract for consultants' services provided by a firm estimated to cost the equivalent of \$100,000 or more; and (e) all contracts for consultants' services procured on a sole-source basis. All other contracts shall be subject to Post Review by the Association.

For the purposes of this Section IV, the Association agrees that, subject to receiving the documentation required in connection with any Prior Review as required by the General Conditions, it will respond to a request from NTPC for the approval of a contract within 10 business days of receipt of such request by the Association.

Schedule 2

Implementation Program

1. NTPC shall:

(a) ensure that the design, construction, operation and maintenance of the Project, and the conduct of the Project, (i) is in compliance with the Environmental and Social Documents and the Environmental and Social Laws and (ii) is consistent with the Applicable Environmental and Social Safeguard Policies and Guidelines; and

(b) implement the Project in compliance with (i) the Environmental and Social Documents, (ii) the Environmental and Social Laws and (iii) the Applicable Environmental and Social Safeguard Policies and Guidelines, and to this end shall: (A) as and when required, promptly obtain and maintain each Required Approval in relation to environmental and social aspects of the Project; and (B) comply with the terms of each Required Approval in relation to environmental and social aspects of the Project in conducting the Project.

In the event that the requirements under any Applicable Environmental and Social Safeguard Policy or Guideline conflicts with another Applicable Environmental and Social Safeguard Policy or Guideline, the Panel of Experts, acting independently and in a manner to determine which policies or guidelines best protects both the environment and the interests of those affected by any Project Impacts, will have final determination on which Applicable Environmental and Social Safeguard Policy or Guideline prevails.

2. NTPC shall not, amend or waive, or agree to vary, amend or waive, any provision of any Environmental and Social Document, except under the conditions described in paragraph 6 of this Schedule 2.

3. NTPC shall fund the Recipient's obligations in relation to the management of the Nam Theun 2 Watershed Area under the SEMFOP, in accordance with Clauses 5.4 and 5.5 of Part 3 of Schedule 4 to the Concession Agreement.

4. NTPC shall prepare for submission to the Intercreditor Agent, with a copy to the Lenders' Technical Advisor, each draft Plan within 90 days of the relevant date specified in the PIP. It is understood in respect of each Plan that:

(a) each Plan will be deemed approved by the Association if (i) the Lenders' Technical Adviser advises that the proposed Plan is not inconsistent with the Applicable Environmental and Social Safeguard Policies and Guidelines, and that the Plan is consistent with Schedule 4 (Environmental and Social Objectives) to the Concession Agreement and the PIP; and (ii) the Association does not object to the proposed Plan within 30 days of receiving the proposed Plan, provided that the Association may only object if the Plan is inconsistent with the Applicable Environmental and Social Safeguard Policies or Guidelines, Schedule 4 to the Concession Agreement or the PIP;

(b) if: (i) the Lenders' Technical Adviser advises that the proposed Plan is inconsistent with the Applicable Environmental and Social Safeguard Policies and Guidelines, Schedule 4 to the Concession Agreement or the PIP; or (ii) the Association objects to the proposed Plan under subparagraph (a) above, within the 30 day period, NTPC must submit a revised proposed Plan (taking account of the Lenders' Technical Adviser's advice and the Association's views) no later than 90 days following the earlier of the Lenders' Technical Adviser's advice and the Association's objection; and

(c) each Plan, once deemed approved pursuant to this paragraph 4, will be incorporated into and form part of the PIP.

5. NTPC shall (a) prepare for submission to the Intercreditor Agent, with a copy to the Association and the Lenders' Technical Adviser, a draft Annual Implementation Plan based on the PIP, on or before March 1, each year (other than the first such Annual Implementation Plan which shall be produced prior to or at Financial Close), and (b) implement each such Plan upon the approval thereof in accordance with the further provisions of this paragraph 5. A proposed AIP will be deemed approved by the Association if:

(a) (i) the Lenders' Technical Adviser advises that the proposed Annual Implementation Plan is not inconsistent with the Applicable Environmental and Social Safeguard Policies and Guidelines, and that the Annual Implementation Plan is consistent with Schedule 4 to the Concession Agreement and the PIP; and (ii) the Association does not object to the proposed Annual Implementation Plan within 30 days of receiving a draft Annual Implementation Plan, provided the Association may only object if the proposed Annual Implementation Plan is inconsistent with the Applicable Environmental and Social Safeguard Policies and Guidelines, Schedule 4 to the Concession Agreement or the PIP;

(b) If; (i) the Lenders' Technical Adviser advises that the proposed Annual Implementation Plan is inconsistent with the Applicable Environmental and Social Safeguard Policies and Guidelines, Schedule 4 to the Concession Agreement or the PIP; or (ii) the Association objects to the proposed Annual Implementation Plan under, and within the period of 30 days, NTPC must submit a revised proposed Annual Implementation Plan (taking account of the Lenders' Technical Adviser's advice and the Interested Parties' views) no later than 30 days following the earlier of the Lenders' Technical Adviser's advice here-above specified and the Association's objection under this paragraph 5.

6. Subject to paragraph 10 (Unanticipated Project Impacts) of this Schedule 2, if NTPC proposes to amend any Environmental and Social Document, or proposes to conduct the Project contrary to its obligations under this Schedule 2, it must submit the proposal to the Association and the Intercreditor Agent, with a copy to the Lenders' Technical Adviser, by no later than 60 days before the proposed amendment or conduct.

(a) An amendment or conduct proposed by NTPC under this paragraph is deemed approved by the Association if: (i) the Lenders' Technical Adviser advises that (A) the proposed amendment or conduct is not inconsistent with the Applicable Environmental and Social Safeguard Policies and Guidelines; and (B) the proposed amendment or conduct is not

inconsistent with the Environmental and Social Document from which it is derived; and (ii) the Association does not object to the proposed amendment or conduct from the Association within 30 days of the Association receiving the proposal from NTPC, provided the Association may only object if the proposed amendment or conduct is inconsistent with the Applicable Environmental and Social Safeguard Policies or Guidelines, or an Environmental and Social Document from which it is derived.

(b) If: (i) the Lenders' Technical Adviser advises that the proposed amendment or conduct is inconsistent with the Applicable Environmental and Social Safeguard Policies and Guidelines or an Environmental and Social Document from which it is derived; or (ii) the Association objects to the proposed amendment or conduct under, and within the period specified in, subparagraph (a) above, NTPC may submit a revised proposed amendment or conduct (taking account of the Lenders' Technical Adviser's advice and the Association's views), no later than 90 days following the earlier of the Lenders' Technical Adviser's advice and the Association's objection under this paragraph 6.

(c) Until the proposed amendment or conduct has been deemed approved in accordance with subparagraph (b) above, NTPC must continue to conduct the Project in accordance with the then applicable Environmental and Social Documents and its obligations under this Schedule 2.

(d) NTPC and the Association agree that each Annual Implementation Plan is derived from the PIP and Schedule 4 to the Concession Agreement, and the PIP is derived from Schedule 4 to the Concession Agreement. This paragraph 6 shall be construed accordingly.

7. NTPC shall ensure that the Head Construction Contractor complies with the HCCEMMP in all material respects. To this end, NTPC must not approve, or grant any waiver in respect of, any amendment to the HCCEMMP or conduct of the Head Construction Contractor which is contrary to any Environmental and Social Law, Required Approvals in relation to the environmental and social aspects of the Project, Applicable Environmental and Social Safeguard Policies and Guidelines or Environmental and Social Documents.

8. NTPC shall submit environmental and social reports and information, in compliance with the Environmental and Social Documents, to the Association, through the Intercreditor Agent or the Lender's Technical Advisor as the case may be. To this end:

(a) NTPC shall deliver to the Association, through the Intercreditor Agent and the Lenders' Technical Adviser environmental and social reports during the periods of construction and operation of the Project;

(b) Each environmental and social report shall include the relevant technical, environmental and social information on the implementation of the Project including the performance of NTPC under the Environmental and Social Documents;

(c) Each environmental and social report referred to in this paragraph 8 may be disclosed by the Association unless in the reasonable opinion of NTPC certain information in

such report (i) is proprietary and confidential, or (ii) contains information that is commercially sensitive to NTPC. In such cases the Association shall, in accordance with its policy on disclosure of information, disclose such information only with the consent of NTPC or the owner or source of the information, as the case may be;

(d) Without prejudice to provision of the paragraph (c) above, the Association shall, when disclosing an environmental and social report or any part thereof, take into account comments if any made by NTPC and the Lenders' Technical Advisor on the form such disclosure should take;

(e) NTPC shall provide reasonable assistance to the Lenders' Technical Adviser, upon prior written request by the Lenders' Technical Adviser, in preparing the verification, audit and commentary on each environmental and social report in accordance with the TA's Mandate;

(f) In addition to the above, NTPC shall deliver to the Association, through the Intercreditor Agent, and the Lenders' Technical Adviser the following reports promptly upon (and only to the extent of) receipt by NTPC of such reports: (i) all reports submitted by the EMO to the EMU; (ii) all reports internal monitoring reports submitted by the Resettlement Office and the Resettlement Management Unit; (iii) all reports submitted by the Head Construction Contractor with respect to any environmental or social matter pertaining to the Project; (iv) all reports issued by the Panel of Experts to NTPC and Recipient; (v) all reports issued by the Dam Safety Review Panel (as defined in the Concession Agreement) to NTPC and Recipient; (vi) all reports issued by each Independent Monitoring Agency; and (vii) all reports arising from the internal and external monitoring of implementation of the Public Health Action Plan of the SDP.

9. If an Unanticipated Project Impact arises, NTPC must promptly notify the Intercreditor Agent and the Lenders' Technical Adviser and:

(a) if such Unanticipated Project Impact is adequately contemplated by any Applicable Environmental and Social Safeguard Policies and Guidelines and the PIP, address such Unanticipated Project Impact in a manner consistent with the applicable Environmental and Social Safeguard Policies and Guidelines and the Environmental and Social Documents; or

(b) if such Unanticipated Project Impact is not adequately contemplated by any Applicable Environmental and Social Safeguard Policies and Guidelines and the Environmental and Social Documents subject to sub-paragraphs (c) and (d) below, (i) consult with the Association with a view to amending the relevant Environmental and Social Document as necessary in accordance with the applicable Environmental and Social Safeguard Policy or Guideline; and (ii) once the amendment is deemed approved by the Association, promptly implement the Project in accordance with such amendment. An amendment proposed by NTPC under this paragraph is deemed approved by the Association if the Association does not object to the proposed amendment within 30 days of the Association receiving the proposed amendment from NTPC, provided the Association may only object if the proposed amendment

or conduct is inconsistent with the Applicable Environmental and Social Safeguard Policies or Guidelines, or an Environmental and Social Document from which it is derived; or

(c) if an Unanticipated Project Impact arises under sub-paragraph (b) above and (i) in the reasonable opinion of NTPC (having due regard to the consequence of not taking immediate action) immediate action contrary to the requirements under an Environmental and Social Document must be taken to prevent a further escalation of the Unanticipated Project Impact; and (ii) NTPC informs the Association, through the Intercreditor Agent, and the Lenders' Technical Adviser of this opinion, NTPC may take such immediate action as may be necessary to prevent the further escalation of the Unanticipated Project Impact and provide the Intercreditor Agent and the Lenders' Technical Adviser with daily reports of the action taken and the effect of the action taken, prior to effecting the amendments required pursuant to sub-paragraph (b) above.

(d) In all cases the obligations of NTPC under this paragraph 9 shall be subject to, and limited by, clause 30.11 of the Concession Agreement.

10. (a) If, at any time, in NTPC's reasonable opinion (having regard to the progress of the implementation of the requirements under the Environmental and Social Documents to date) an environmental or social objective under Schedule 4 (Environmental and Social Objectives) to the Concession Agreement cannot be satisfied by such time required under that Schedule, NTPC must promptly notify the Association, through the Intercreditor Agent, and the Lenders' Technical Adviser.

(b) Promptly after making the notification under sub-paragraph (a) above, NTPC shall consult with the Interested Parties and the Lenders' Technical Adviser as to how the relevant environmental or social objective may be achieved and whether a time table for achieving such objective shall be revised.

(c) Any amendments to any of the Environmental and Social Documents following the consultation referred to in sub-paragraph (b) of this paragraph 10 shall be made pursuant to the process set out in paragraph 6 of this Schedule 2.

11. NTPC shall:

(a) by June 30, 2005, engage qualified consultants for designing the downstream activities in accordance with the Procurement Plan, Schedule 4 Part 4 of the Concession Agreement and the SDP, and in a manner satisfactory to the Association;

(b) by June 30, 2006, provide to the Association for its review and comment, a detailed downstream mitigation/compensation plan, in compliance with Part 4 of Schedule 4 to the Concession Agreement, and thereafter implement such plan as shall have been agreed with the Association, in a manner satisfactory to the Association.

(c) prepare and implement and enforce policies, in cooperation with the Recipient, rules and guidelines to prevent and prohibit wildlife trade in its facilities by its staff, workers,

camp followers, and staff and workers of all its sub-contractors, all satisfactory to the Association;

(d) ensure that appropriate language is added to all labor-related contracts and guidelines to inform staff and workers on the prevention and prohibition of wildlife trade;

(e) disseminate and display information about the prevention and prohibition of wildlife trade in all its facilities; and

(f) include data and information on the implementation and enforcement of such policies, rules and guidelines in all Environmental and Social Reports.

12. In the event that any land additional to that identified pursuant to the provisions of the Concession Agreement is required either permanently or temporarily during Project implementation for construction and/or operation of the NT2 Hydroelectric Power Facility under Part A of the Project or any other Part of the Project, NTPC shall:

(a) apply the mitigation principles and measures and provide to the Project Affected People compensation, resettlement and rehabilitation entitlements in accordance with the principles and objectives set forth in Schedule 4 Part 1 of the Concession Agreement;

(b) undertake timely informed consultation with the PAPs and make publicly available the plans designed to provide the required compensation and entitlements; and

(c) promptly notify the Association of such occurrences and furnish the plans prepared to the Association.

Schedule 3

Summary of Terms of Tri-Partite Agreement

The Tri-Partite Agreement to be entered into among the Recipient (through its Ministry of Finance), LHSE and NTPC shall include the following terms and conditions:

1. Grant Withdrawal Arrangements

Subject and without limitation to the provisions of Schedule 1 to the Development Grant Agreement, the withdrawal arrangements for the Grant from the Grant Account shall include the following:

A. Each request by the Recipient for a withdrawal from the Grant Account for a deposit of funds into the Special Account shall be based on a Financial Monitoring Report furnished in accordance with Section 4.02 of this NTSEP Project Agreement and a written determination by NTPC of projected sources and applications of funds in respect of Eligible Expenditures for Parts B through E of the Project for the next six-month period following the date of such request. Such written determination shall be provided by NTPC to MOF with a copy to LHSE.

B. Standing instructions shall be provided by MOF to the institution at which the Special Account is held as follows: payments out of the Special Account shall be made exclusively at the written request and against the sole signatures of designated representatives of NTPC, upon NTPC's provision of a letter certifying that the expenditures identified in the Financial Monitoring Report (as incurred and for which reimbursement is being claimed) are Eligible Expenditures. For such purposes, when opening the Special Account, MOF shall request NTPC to provide to the said institution specimen signatures of NTPC's designated representatives authorized to withdraw funds from the Special Account.

2. Issuance of Lao PDR equity shares in NTPC

(a) Every six-months, or such shorter period of time as NTPC may decide, NTPC shall furnish to LHSE documents evidencing Eligible Expenditures incurred during the previous six months or relevant shorter period of time.

(b) NTPC shall issue to LHSE equity shares in NTPC to be held on behalf of MOF, upon receipt by the institution where the Special Account is held of the certifying letter referred to in paragraph 1.B of this Part B and in accordance with the Shareholders Agreement.

3. **Financial Statements**

Every Fiscal Year, NTPC will prepare financial statements in accordance with the provisions of Article IV of this NTSEP Project Agreement. Such statements shall include the receipts and application of income, clearly indicating all payments to the Recipient and to LHSE in accordance with the provisions of Schedules 19 and 24 of the Concession Agreement. These financial statements shall be audited annually by an auditor acceptable to the Association. The audited financial statements together with the audit report thereof will be published by NTPC within six months of the completion of said audit report.