



**USAID**  
FROM THE AMERICAN PEOPLE

**TRADE  
HUB**  
SOUTHERN AFRICA



# **Zambia Renewable Feed-in Tariff (REFIT) Program**

## **Model Grid Connection Agreement**

**February, 2016**

**Submitted by:  
USAID Southern Africa Trade Hub /  
AECOM International Development**

**Submitted to:  
USAID/Southern Africa**

**and**

**Zambia Energy Regulation Board**

**USAID Contract No. # 857-C15-016**

**DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

P.O. Box 602090 • Plot 50668, Fairgrounds • Gaborone, Botswana •  
Phone (267) 390 0884 • Fax (267) 390 1027 • [info@satradehub.org](mailto:info@satradehub.org) • [www.satradehub.org](http://www.satradehub.org)



**MODEL CONNECTION AGREEMENT**

**BETWEEN**

**ZESCO LIMITED**

**AND**

***[NAME]***

**RELATING TO**

***[NAME]* POWER PLANT**

February 2016

**NOTES:**

1. *This “model” connection agreement (the “Agreement”) outlines the provisions commonly found in connection agreements in respect of IPPs connecting to the national grid.*
2. *This Agreement is based on a number of key assumptions including:*
  - a) *the Renewable Energy Independent Power Producer (REIPP) project complies with the Zambia REFIT Rules and that it has been identified as an eligible renewable energy supplier via Zambia’s REFIT procurement program.*
  - b) *the REIPP will finance the project through project finance arrangements;*
  - c) *the connection assets will be commissioned as an integrated whole (and not in stages);*
  - d) *the REIPP will be entering into a power purchase agreement (“Power Purchase Agree”) with ZESCO,*
  - e) *the REIPP will also be entering into an implementation agreement (“Implementation Agreement”) with the Government of the Republic of Zambia (“Government”);*
  - f) *the REIPP will obtain a Generation License from the regulator in Zambia,*
3. *Section 1 sets forth the definitions of the capitalized terms used in the text of the Agreement.*
4. *There are different options regarding which entities are allowed to create, fund and pay for new network assets. This Connection Agreement assumes the following:*
  - a) *The REIPP is responsible for funding and creating the Dedicated Connection Assets (also sometimes referred as “Shallow assets”) subject to ZESCO’s specifications, oversight and approval.*
  - b) *Subject to prior arrangement between the REIPP and ZESCO either of the Parties (or their representatives) may assume responsibility for the development of the Shared Connection Assets (also referred to as “Deep Assets”.*
  - c) *The REIPP is responsible for funding of the Shared Connection Assets either by self-creating the assets or by providing ZESCO with the funds (“Capital Contribution”) to create the assets.*
  - d) *Subject to prior arrangement between the REIPP and ZESCO, ZESCO will refund the REIPP for the portion of the Shared Network Assets that are not needed or used by the REIPP. Such refund will take the form of a monthly payment (“Monthly Capital Contribution Reimbursement Charge”). The charge will form of the monthly invoice between the REIPP and ZESCO provided for under the PPA between the REIPP and ZESCO.*

*Some schedules to the Agreement have not been completed in this draft as these attachments are largely project-specific*

**Table of Contents**

<b>1.</b>	<b>DEFINITIONS, INTERPRETATION AND CONSTRUCTION .....</b>	<b>8</b>
<b>2.</b>	<b>DURATION OF AGREEMENT .....</b>	<b>12</b>
<b>3.</b>	<b>CONDITIONS PRECEDENT .....</b>	<b>12</b>
<b>4.</b>	<b>CONSIDERATION.....</b>	<b>14</b>
<b>5.</b>	<b>CONSENTS.....</b>	<b>14</b>
<b>6.</b>	<b>ZESCO RESPONSIBILITIES .....</b>	<b>14</b>
<b>7.</b>	<b>REIPP RESPONSIBILITIES.....</b>	<b>15</b>
<b>8.</b>	<b>ACCESS TO PREMISES .....</b>	<b>15</b>
<b>9.</b>	<b>ASSISTANCE AND CO-OPERATION .....</b>	<b>16</b>
<b>10.</b>	<b>ROLE OF PROJECT IMPLEMENTATION TEAM.....</b>	<b>17</b>
<b>11.</b>	<b>DELAYS, CLAIMS AND EXTENSIONS OF TIME .....</b>	<b>18</b>
<b>12.</b>	<b>COMPLETION OF WORKS .....</b>	<b>19</b>
<b>13.</b>	<b>COMPENSATION FOR DELAY .....</b>	<b>19</b>
<b>14.</b>	<b>FORCE MAJEURE.....</b>	<b>20</b>
<b>15.</b>	<b>INSURANCE .....</b>	<b>23</b>
<b>16.</b>	<b>TERMINATION .....</b>	<b>24</b>
<b>17.</b>	<b>INDEMNITY .....</b>	<b>27</b>
<b>18.</b>	<b>OWNERSHIP OF ASSETS .....</b>	<b>28</b>
<b>19.</b>	<b>CAPITAL CONTRIBUTION REIMBURSEMENT .....</b>	<b>28</b>
<b>20.</b>	<b>REPRESENTATIONS AND WARRANTIES .....</b>	<b>28</b>
<b>21.</b>	<b>DISPUTES.....</b>	<b>30</b>
<b>22.</b>	<b>GOVERNING LAW AND JURISDICTION.....</b>	<b>30</b>
<b>23.</b>	<b>NO PARTNERSHIP.....</b>	<b>30</b>
<b>24.</b>	<b>CONFIDENTIAL INFORMATION.....</b>	<b>30</b>

25.	<b>ENTIRE AGREEMENT</b> .....	31
26.	<b>WAIVER</b> .....	31
27.	<b>COSTS</b> .....	32
28.	<b>ASSIGNMENT AND SUB-CONTRACTING</b> .....	32
29.	<b>CONSENTS AND APPROVALS</b> .....	32
30.	<b>INVALIDITY</b> .....	33
31.	<b>NOTICES</b> .....	33
32.	<b>COUNTERPARTS</b> .....	34
33.	<b>DEFAULT INTEREST</b> .....	34
34.	<b>AMENDMENTS</b> .....	35
35.	<b>PRIVITY TO CONTRACT</b> .....	35
36.	<b>SCHEDULE 1: REIPP WORKS AND ZESCO WORKS</b> .....	36
37.	<b>SCHEDULE 2: Necessary Consents</b> .....	37
38.	<b>SCHEDULE 3: MILESTONE SCHEDULE</b> .....	38

**THIS AGREEMENT** is made on the.....day of .....[20●]

BETWEEN

**ZESCO LIMITED**, a Company registered in Zambia whose registered office is at Stand No.6949, Great East Road, Head Office, Lusaka, Zambia (hereinafter referred to as "**ZESCO**") on the one part,

AND

**RENEWABLE ENERGY INDEPENDENT POWER PRODUCER LIMITED** a company incorporated in the Republic of Zambia (registration No.\_\_\_\_\_) and having its registered office at \_\_\_\_\_ Zambia (hereinafter referred to as "**REIPP**") which expression shall include the successors and assignees of **REIPP**) of the other part.

RECITALS

WHEREAS:

- (a) ZESCO owns and controls a substantial part of the electricity transmission and distribution infrastructure in Zambia (the "**ZESCO System**").
- (b) REIPP is a company involved in building and operating a power generation plant for selling electricity to ZESCO (the "**Power Generation Project**") and needs to connect to the ZESCO System in order to do so.
- (c) REIPP intends to facilitate the development, including construction, procurement or financing, of transmission and/or distribution infrastructure related to this project on behalf of ZESCO Limited.
- (d) The facilities referred to in Recital (C) are expected to inject [●] MVA of electrical power into the ZESCO System.
- (e) REIPP and ZESCO wish to enter into contractual obligations under terms and conditions set out in this Agreement for the construction and installation of the necessary infrastructure and equipment to connect the generation facilities of REIPP to the ZESCO system.

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS, INTERPRETATION AND CONSTRUCTION**

**1.1. All defined terms shall have the meaning as herein set out or (where not set out herein) as defined in the Connection Agreement:**

**“Adjusted Target Completion Date”** means the Target Completion Date suitably adjusted to accommodate the Make-up Period;

**“Agreement”** means this agreement;

**“Capital Contribution”** means the amount paid by the REIPP to cover the ZESCO Works;

**“Connection Agreement”** means this agreement;

**“Business Day”** means a day when clearing banks in Lusaka are open for business, excluding Saturdays, Sundays and public holidays;

**“Completion Date”** means the earlier of (a) the date set out in the Taking-over Certificate and (b) the date set out in the Minimum Works Taking-Over Certificate;

**“Conditions”** has the meaning contained in clause 3.1;

**“Confidential Information”** means all information relating to any Party’s business or financial or other affairs (including any matter relating to the REIPP Works), which is not in the public domain;

**“Day”** means a calendar day;

**“Defaulting Party”** has the meaning contained in clause 16.1;

**“Effective Date”** has the meaning contained in clause 3.1;

**“EPC Contractors”** means the entity or entities designated by the respective Parties, to engineer, procure and construct the REIPP Works and or the ZESCO Works;

**“First Supply Date”** has a meaning given to this in the Connection Agreement;

**“Force Majeure”** has the meaning given to this term in clause 14.1;

**“Implementation Agreement”** means the agreement executed between REIPP and the Government of the Republic of Zambia represented by the Ministry of [●] in relation to the development of the Power Generation Project;

**“Insuring Party”** means, for each type of insurance, the Party responsible for effecting and maintaining or procuring the insurance referred to in section 15;

**“Lapse of Consent”** means any Necessary Consent:



- (a) not being issued (or, having lapsed, not being renewed or replaced) within [●] days of properly and timely made and diligently pursued application by a Party for that Authorization to be issued, renewed, or replaced, as the case may be, and as a result the Parties' ability to perform its obligations under this Agreements is materially and adversely affected;
- (b) being made subject, upon renewal or otherwise, to any terms or conditions that materially and adversely affect the Parties' ability to perform its obligations under this Agreement; or
- (c) being withdrawn, cancelled, or suspended other than as provided under Laws of Zambia and as a result the Parties' ability to perform its obligations under this Agreement is materially and adversely affected,

**“Law”** means any applicable law, statute, proclamation, by-law, directive, decision, regulation, order, notice, rule of court or delegated or subordinated legislation and any applicable request or requirement with which a Party is legally required to comply;

**“LIBOR”** means the London Interbank Offered Rate for United States Dollars for six (6) month advances which appears on the Telerate page 3750 as of 11.00am, London time, on the date that is two (2) Business Days preceding the date on which the payment is due ;

**“Make-up Period”** has the meaning set forth in clause 2.2;

**“Minimum Works Taking Over Certificate”** means a certificate issued by either of the Parties pursuant to clause 12.2, that sufficient Works have been completed to enable the Parties to comply with its obligations under the Connection Agreement;

**“Monthly Capital Contribution Reimbursement Charge”** means the monthly amount invoiced by the REIPP to ZESCO, as provided for under the PPA between the REIPP and ZESCO, to recover the Capital Contribution amount, including any funding costs;

**“Necessary Consents”** means all those consents, approvals, authorizations, interests and other rights listed in section 37 (Schedule 2) together with any other such consent, approvals, authorizations, interests, rights, licenses, permissions or certificates referred to in clause 5.1 and 5.2;

**“Party”** means REIPP or ZESCO as the context requires and “Parties” shall be construed accordingly;

**“PPA”** means a Power Purchase Agreement concluded between REIPP and ZESCO necessitating this Connection Agreement;

**“Program for Interface Works”** means the program set out in EPC contracts work schedules (as the same may be amended pursuant to this Agreement) describing (a) those aspects of the ZESCO Works and the REIPP Works which interface with and are contingent on each other and (b) the relative time of those works necessary for their orderly completion;

**“Project Implementation Team”** (PIT) means the group established by ZESCO and REIPP respectively pursuant to section 10;

**“Prudent Industry Practices”** means prudent industry practices followed by the electricity industry in Southern Africa having regard to operational and engineering considerations including manufacturers’ recommendations and to reasonable cost consistent with reliability and safety;

**“Recipient”** has the meaning set forth in clause 33.1;

**“REIPP Development Consents”** means those consents, approvals, authorizations, interests and other rights listed in clause 37.3 (Schedule 2);

**“REIPP Event of Default”** has the meaning given to this term in clause 16.3;

**“REIPP Initial Consents”** means those consent, approvals, authorizations, interests and other rights listed in clause 37.1 (Schedule 2);

**“REIPP Works”** means the engineering, procurement, construction, and commissioning of the infrastructure and equipment described in clause 36.1 (Schedule 1) and any works ancillary to such works;

**“Taking-Over Certificate”** means the Taking-Over Certificate issued under the EPC Contracts;

**“Target Completion Date”** means the planned date for completing all of the Works, being [●], subject to any permitted extensions of time pursuant to this Agreement;

**“Term”** has the meaning set forth in Clause 2.1;

**“Tests on Completion”** means The Tests on Completion under the EPC Contracts;

**“Transaction Documents”** has the meaning set forth in clause 25.1;

**“Works”** means the ZESCO Works and the REIPP Works;

**“ZESCO Event of Default”** has the meaning set forth in clause 16.2;

**“ZESCO Development Consents”** means those consents, approvals, authorizations, interests and other rights listed in clause 37.4 (Schedule 2);

**“ZESCO Initial Consents”** means those consents, approvals, authorizations, interests and other rights listed in clause 37.2 (Schedule 2);

**“ZESCO Works”** means the design specification, site functional tests & approval and commissioning, and supervision of the diagrams described in clause 36.2 (Schedule 1) and any works ancillary to such works;

**1.2. In this Agreement unless otherwise specified, reference to:**

- (a) a document in the 'agreed terms' is a reference to that document in the form approved and for the purposes of identification signed or initialled by or on behalf of each Party, and a 'certified copy' is a reference to a copy of an original document which copy is certified as true and complete by an attorney holding a current practicing certificate or equivalent authority;
- (b) a Party means a Party to this Agreement and includes its permitted assignees and/or the successors in the title to substantially the whole of its undertaking and, in the case of an individual, to his or her estate and personal representatives;
- (c) a person includes any person, individual, company, firm, corporation government, state or agency of a state or any undertaking (whether or not having separate legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
- (d) a statute or statutory instrument or standard or any of their provisions is to be construed as a reference to that statute or statutory instrument or accounting standard or such provision as the same may have been or may from time to time hereafter be amended or re-enacted;
- (e) the clauses, paragraphs, schedules and recitals herein form part of the agreement between the Parties.
- (f) writing shall include typewriting, printing photography and other modes of representing words in a legible and non-transitory form, including electronic e-mail, provided that such electronic e-mail is stored by the sender in a permanent and non-transitory form;
- (g) words denoting the singular shall include the plural and vice versa and the words denoting any gender shall include all genders;
- (h) any statute, statutory instrument, regulation, by-law or other requirement of the law and to any legal term for any action, remedy, method of judicial proceeding, legal document, legal status, official or any legal concept or doctrine shall in respect of any jurisdiction be deemed to

include that which most nearly approximates in that jurisdiction to the term;

(i) The time of day is reference to time in Lusaka, Zambia.

1.3. Any sums payable pursuant to this Agreement shall be calculated in United States Dollars and remitted in either the United States Dollars or Zambian Kwacha at the Standard Chartered Bank's mid-market rate free of any deductions or withholdings to accounts nominated by the recipient in writing.

1.4. The index to and the headings in this Agreement are for information only and are to be ignored in constructing the same.

## **2. DURATION OF AGREEMENT**

### **2.1. Term**

2.1.1. This Agreement shall come into force in accordance with Clause 3 (Conditions Precedent) and, subject to the other provisions of this Agreement, shall continue in effect for a period of [twenty years] from the Commercial Operation Date (the "**Term**").

### **2.2. Make-up Term**

2.2.1. Without limiting the generality of clause 2.1, the Term shall be extended on a day-for-day basis for all periods during which an Affected Party is unable to perform its obligation pursuant to a Force Majeure Event, and is relieved of its obligations to so perform in accordance with section 14 (the "**Make-up Period**").

2.2.2. The occurrence of Force Majeure events during the Make-up Period shall give rise to a further extension of the Make-up Period.

## **3. CONDITIONS PRECEDENT**

3.1. Subject to clause 3.2, the obligations of the Parties under this Agreement (other than those contained in this section 2 and sections 1, 14, 16 and 19 to 35, which are unconditional) are conditional in all respects upon the fulfilment or waiver in accordance with this Agreement of the following conditions:

(a) Execution by all Parties of a PPA by ZESCO and REIPP ;

- (b) The grant to REIPP of all way-leaves reasonably necessary to carry out the Works including any way-leaves over land not owned by ZESCO for the construction maintenance of the transmission facilities, on terms reasonably acceptable to ZESCO;
- (c) ZESCO being provided with a certified copy of a resolution of the board of directors of REIPP in a form reasonably satisfactory to ZESCO approving the execution, delivery and performance by REIPP of this Agreement and all other documents referred to herein;
- (d) REIPP being provided with a certified copy of a resolution of the board of directors of ZESCO in a form reasonably satisfactory to REIPP approving the execution, delivery and performance by ZESCO of this Agreement and all other documents referred to herein;
- (e) REIPP paying ZESCO the full amount of the Capital Contribution for the construction and supervision of the ZESCO Works to be carried out under this agreement referred to in clause 36.2.

Together the “**Conditions**”

The date on which all the conditions are waived or satisfied in full shall be known as the “**Effective Date**”.

- 3.2. If all of the Conditions have not been fulfilled (save for those Conditions which have been waived by both Parties) prior to [●] or such later date or dates agreed by the Parties in writing, this Agreement shall automatically terminate, save that the rights and liabilities of the Parties which have occurred prior to termination shall continue to subsist.
- 3.3. The Parties shall use their reasonable endeavors to procure satisfaction of the Conditions and shall provide all reasonable assistance and co-operation reasonably requested by the other Party in order to procure satisfaction of such Conditions.
- 3.4. REIPP will be responsible for the costs of the REIPP Works and the funding of the ZESCO Works: Provided that any Capital Contribution to be paid by REIPP to ZESCO as part of the ZESCO works shall be paid in full in one instalment upon signing of this Agreement and shall be deposited directly into account number [●].

3.5. The importation of all equipment under this Agreement shall be made in the name of and for and on behalf of REIPP who shall be responsible for all import duties and VAT.

#### **4. CONSIDERATION**

4.1. In consideration of the matters set forth in this Agreement and other good and valuable consideration ZESCO has authorized REIPP to procure and construct and carry out all the REIPP Works referred to under this agreement.

#### **5. CONSENTS**

5.1. ZESCO shall obtain or procure the obtaining of all the ZESCO Development Consents and any other approvals, consents, licenses, permissions, certificates and other rights necessary for the carrying out of the ZESCO Works in accordance with this Agreement in good time so as not to delay or prevent the progress of the ZESCO Works or any other aspect of the REIPP Works.

5.2. REIPP shall obtain or procure the obtaining of all the REIPP Development Consents and any other approvals, consents, licenses, permissions, certificates and other rights necessary for the carrying out of the REIPP Works in accordance with this Agreement, in good time so as not to delay or prevent the progress of the REIPP Works or any other aspect of the ZESCO Works.

5.3. A copy of each Necessary Consent shall, when obtained be delivered to the other Party subject to the provisions of section 24.

#### **6. ZESCO RESPONSIBILITIES**

##### **6.1. ZESCO shall carry out or procure the carrying out of the ZESCO Works:**

- (a) In accordance with the terms and conditions of this Agreement;
- (b) In an efficient, effective and safe manner in compliance with applicable environmental, health and safety policies;
- (c) In a manner that is not likely to be injurious to health or to cause damage to property;
- (d) In compliance with all Laws;

- (e) In compliance with all Necessary Consents applicable to the ZESCO Works;
- (f) In compliance with Prudent Industry Practice; and
- (g) Using its reasonable endeavors not to delay or impede the carrying out or commissioning of the REIPP Works in any respect, in accordance with the Program for Interface Works.

## **7. REIPP RESPONSIBILITIES**

### **7.1. REIPP shall carry out or procure the carrying out of the REIPP Works:**

- (a) In accordance with the terms and conditions of this Agreement;
- (b) In an efficient, effective and safe manner in compliance with applicable environmental, health and safety policies;
- (c) In a manner that is not likely to be injurious to health or to cause damage to property;
- (d) In compliance with all Laws;
- (e) In compliance with all necessary consents applicable to the REIPP Works;
- (f) In compliance with Prudent Industry Practice; and
- (g) Using its reasonable endeavors not to delay or impede the carrying out of commissioning of the ZESCO Works in any respect, in accordance with the Program for Interface Works.

## **8. ACCESS TO PREMISES**

- 8.1. ZESCO and its contractors and the agents and employees of each shall be entitled to access REIPP's premises at all reasonable times, where necessary for the purpose of carrying out the ZESCO Works, subject to compliance by such Parties with REIPP's safety and operational regulations affecting its activities at such premises as may be notified to ZESCO by REIPP from time to time and with any statutory and regulatory requirements. ZESCO hereby indemnifies and shall keep indemnified REIPP against any loss or damage caused in the course of its exercise for the rights granted in this clause 8.1.

8.2. REIPP and its Contractors and the agents and employees of each shall be entitled to access to ZESCO's premises at reasonable times, where necessary for the purpose of carrying out the REIPP Works, subject to compliance by such Parties with ZESCO's safety and operational regulations affecting its activities at such premises as may be notified to REIPP by ZESCO from time to time and with any statutory and regulatory requirements. REIPP hereby indemnifies and shall keep indemnified ZESCO against any loss or damage caused in the course of its exercise of such rights save to the extent that such losses or damage were caused in the responsible and reasonable exercise of the rights granted in this clause 8.2.

**9. ASSISTANCE AND CO-OPERATION**

9.1. Each Party agrees to co-operate with and assist the other Party in the fulfilment and facilitation of the purpose and intent of the REIPP Works and the ZESCO Works, the exercise of its rights and performance of such other Party's obligations under this Agreement and to provide all information reasonably required by the other Party save, in either case, to the extent that:

- (a) Such co-operation or disclosure would oblige either Party to incur additional cost (other than additional cost which is minor in nature);
- (b) Such information is readily obtainable by the other Party from other sources; or
- (c) Such co-operation or disclosure would unreasonably interfere with rights of either of the Parties to arrange its affairs in whatever manner it considers fit.

9.2. Neither Party shall impede or interfere with the other Party in the performance of its obligations under this Agreement and each Party shall ensure that none of its contractors, agents, employees and consultants so impede or interfere with the other Party, whether by act or omission.

**9.3. Without prejudice to each Party's obligations under clauses 9.1 and 9.2:**

- (a) ZESCO shall provide reasonably detailed information on the ZESCO Works and updates of such information to REIPP once a month and as and when required by REIPP ; and



- (b) REIPP shall provide reasonably detailed information on the REIPP Works and updates of such information to ZESCO once a month and as and when required by ZESCO,

so as to enable the Parties to achieve Completion of the Works by the Target Completion Date.

**10. ROLE OF PROJECT IMPLEMENTATION TEAM**

10.1. On or prior to the Effective Date, ZESCO shall establish a team to supervise the engineering design, construction, procurement and Supervision of the Works (the “Project Implementation Team”).

**10.2. ZESCO shall ensure that:**

- (a) The Project Implementation Team meets as often as is required so as to ensure that ZESCO Carries out its role in the project efficiently and effectively
- (b) The Project Implementation Team conducts its meetings in such a manner as to progress the implementation of the REIPP Works;
- (c) Each of the members of the Project Implementation Team does all things reasonably necessary to ensure that the Project Implementation Team operates in the manner required by this Agreement and
- (d) The Project Implementation Team shall be responsible for:
  - (i) Discussing to the extent applicable, any EPC Determinations required to be made under the EPC Contracts; and
  - (ii) Discussing any other issues relating to the REIPP Works of mutual interest to the Parties.

10.3. On or prior to the Effective Date, REIPP shall establish a team to supervise the construction, procurement and Supervision of the Works.

**10.4. REIPP shall ensure that:**

- (a) The Project Implementation Team meets as often as is required so as to ensure that ZESCO carries out its role in the project efficiently and effectively;

- (b) The Project Implementation Team conducts its meetings in such a manner as to progress the implementation of the REIPP Works;
- (c) Each of the members of the Project Implementation Team does all things reasonably necessary to ensure that the Project Implementation Team operates in the manner required by this Agreement and
- (d) The Project Implementation Team shall be responsible for:
  - (i) Discussing to the extent applicable, any EPC Determinations required to be made under the EPC Contracts; and
  - (ii) Discussing any other issues relating to the REIPP Works of mutual interest to the Parties.

**11. DELAYS, CLAIMS AND EXTENSIONS OF TIME**

- 11.1. ZESCO and REIPP shall procure that the Taking-Over Certificate or if ZESCO or REIPP so elects pursuant to clause 12.2, the Minimum Works Taking-Over Certificate is issued on or before the Target Completion Date in order to enable ZESCO and REIPP to enjoy their rights and discharge their obligations under the Connection Agreement.
- 11.2. The program for the Works shall be in accordance in all material respects with the Program for Interface Works. REIPP or ZESCO, as the case may be, shall submit a revised program for the REIPP Works or the ZESCO Works wherever the previous program becomes inconsistent with actual progress or with the Parties' obligations, which program will be in accordance with the Program for Interface Works. Each revised program shall include:
  - (a) the order in which the REIPP or ZESCO, as the case may be, intends to carry out the REIPP Works or the ZESCO Works; and
  - (b) any amendments necessary to the Program for Interface Works.
- 11.3. A Party shall only be entitled to amend or vary the Program for Interface Works with the other Party's consent, such consent not to be unreasonably withheld or delayed.

11.4. Each Party shall promptly give notice to the other of any specific probable or foreseeable future events or circumstances which may adversely affect or delay the execution of the Works.

## **12. COMPLETION OF WORKS**

12.1. Either Party shall give the other Party 14 days' notice of the date on which it will carry out the Tests on Completion of the REIPP Works or the ZESCO Works that that Party is responsible for. Unless otherwise agreed Tests on Completion, shall be carried out on this date and both Parties shall be entitled to be present at such tests.

12.2. If any of the Works fails to pass the Tests on Completion then notwithstanding any other provision of this Agreement the responsible Party shall be entitled either to:

- (a) order further repetition of Tests on Completion in the manner specified under the EPC Contract; or
- (b) Issue, with the consent of the other Party, a Minimum Works Taking-Over Certificate, but remain fully obligated to complete its responsibilities under this Agreement.

## **13. COMPENSATION FOR DELAY**

13.1. In the event that REIPP fails to complete the REIPP Works by the Adjusted Target Completion Date, REIPP will be liable to pay ZESCO additional costs for extra period of project management and supervision, for the period from the Adjusted Target Completion Date up to the Completion Date.

13.2. All defined terms shall have the meaning as herein set out or (where not set out herein) as defined in the Connection Agreement:

13.3. In the event that ZESCO fails to complete the ZESCO Works by the Adjusted Target Completion Date, ZESCO will be liable to pay REIPP the deemed energy charges provided for and calculated in the manner set out in the PPA, for the period from the Adjusted Target Completion Date up to the Completion Date.

13.4. The additional cost referred to in clause 13.1 shall be calculated on a weekly basis for the period of the delay in accordance.

## 14. FORCE MAJEURE

### Definition of Force Majeure

14.1. A “Force Majeure Event” shall mean any event or circumstance or combination of events or circumstances beyond the reasonable control of a Party occurring on or after the date hereof that materially and adversely affects the performance by that Party of its obligations under or pursuant to this Agreement; provided, however, that such material and adverse effect could not have been prevented, overcome or remedied in whole by the affected Party through the exercise of diligence and reasonable care. The Parties agree that reasonable care includes acts or activities to protect the Project from a casualty event, which are reasonable in light of the likelihood of such event, the effect of such event if it should occur, and the likely efficacy, cost and cost-effectiveness of protective measures. Subject to the exclusions in clause 16.2, “Force Majeure Event” shall include the following events and circumstances, but only to the extent that they satisfy the above requirements:

14.1.1. Events or circumstances or any combination of events and/or circumstances of the following types that occur inside or directly involve Zambia (“**Political Force Majeure Events**”):

- (a) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo or revolution;
- (b) radioactive contamination or ionizing radiation originating from a source in Zambia or resulting from another Political Force Majeure Event;
- (c) any riot, insurrection, civil commotion, act or campaign of terrorism that is of a political nature, such as, by way of example and not limitation, actions associated with or directed against a Party and/or the EPC Contractors as part of a broader pattern of actions against companies or facilities with foreign ownership or management;
- (d) a Lapse of Consent that:
  - (i) shall have existed for 26 days or more, or
  - (ii) together with any and all Lapses of Consent that have occurred in the same calendar year, shall have existed in the aggregate for 45 days or more in such year, or

- (iii) together with any and all Lapses of Consent that have occurred in the same or preceding two calendar years, shall have existed in the aggregate for 60 days or more.
  - (e) any strike, work-to-rule or go-slow which is not primarily motivated by a desire to influence the actions of a Party so as to preserve or improved conditions of employment, and:
    - (i) is part of an industry-wide strike, work-to-rule or go-slow, in response to the coming into force, modification, repeal or change in the interpretation or application of any Law of Zambia after the date of this Agreement; or
    - (ii) is by the employees of any Governmental Authority in response to the coming into force, modification, repeal or change in the interpretation or application of any Law of Zambia after the date of this Agreement; or
    - (iii) is caused by a Political Force Majeure Event, and
  - (f) for the avoidance of doubt, events included within this sub-clause 14.1.1(e) shall not constitute Other Force Majeure Events, notwithstanding clause 14.1.2.
  - (g) any Change in Law having the effect of preventing or delaying the construction, commissioning or testing of the Works or which prohibit (by rendering unlawful) the operation of the Works or which imposes material limitations on the operation of the Works; or
  - (h) either any of:
    - (i) order or injunction issued by any Governmental Authority; or
    - (ii) any declaration pursuant to a statutory instrument in either case in respect of archaeological or paleontological remains discovered on or under the Works that would not have been revealed by a soils investigation of the Works; or
- 14.1.2. events or circumstances or any combination of events and/or circumstances of the following types, except to the extent that they constitute or are caused by a Political Force Majeure Event (“**Other Force Majeure Events**”):

- (a) earthquake, flood, storm, cyclone or lightning;
- (b) fire, explosion, mudslides or chemical contamination;
- (c) epidemic or plague that extend beyond the affected Party's organization and are widespread or nationwide;
- (d) a Lapse of Consent (other than a Lapse of Consent that constitutes a Political Force Majeure Event); or
- (e) any strike, work-to-rule or go-slow which is not primarily motivated by a desire to influence the actions of the Company so as to preserve or improve conditions of employment

**Exclusions**

- 14.2. Events or circumstances which shall not constitute Force Majeure include:
  - 14.2.1. lack of funds due to any commercial, economic or financial reason such as, but not limited to, a Party's inability to make a profit or achieve a satisfactory rate of return due to the provisions of this Agreement or changes in market conditions (including due to any Change In Law);
  - 14.2.2. any unexpected changes in the cost and quantities of plant or materials during the construction stage arising out of or relating to lack of proper planning, due diligence or the necessary feasibility studies;
  - 14.2.3. late delivery of machinery or other materials or a delay in the performance by any contractor or supplier (except where such late delivery or delay is itself attributable to a Force Majeure Event);
  - 14.2.4. normal wear and tear or random flaws in materials and equipment or breakdown in equipment;
  - 14.2.5. hazards, including but not limited to lightning or the growth of trees, which can be reasonably anticipated in normal utility operations and planned for as part of Prudent Industry Practice; and
  - 14.2.6. the inability at any time or from time to time of the ZESCO System to accept electricity, except where caused by a Political Force Majeure Event

**In Case of an Event of Force Majeure**

- 14.3. Save that a declaration of Force Majeure shall not relieve any Party from the requirement to make any payment when due, if a Party is prevented from or delayed in performing an obligation hereunder by reason of a Force Majeure Event (the “Affected Party”), the Affected Party shall:**
- 14.3.1. be relieved from the requirement to perform that obligation during the continuance of the Force Majeure Event;
- 14.3.2. promptly notify the other Party of the occurrences of the event within ninety six (96) hours giving full particulars and satisfactory evidence in support of its claim; and in the event of a breakdown of communication rendering it not reasonably practicable to give notice of Force Majeure within the period specified above, the Affected Party may give such notice as soon as possible, but not later than twenty four (24) hours after reinstatement of communication; and
- 14.3.3. use all reasonable endeavors to overcome the consequences of the event and where the Force Majeure Event has been eliminated or no longer affects a Party, the obligations in this Agreement shall recommence forthwith, and the applicable period for the performance of the obligation shall be extended by a period equal to the duration of the Force Majeure Event.

**15. INSURANCE**

- 15.1. REIPP, at its own cost, if required, shall effect and maintain or procure that it's Contractors effect and maintain the insurance in accordance with and for the periods specified in the work schedules.
- 15.2. REIPP shall submit to ZESCO, wherever reasonably requested:
- (a) evidence that the insurances referred to in this section 15 have been effected and are being maintained; and
- (b) copies of the policies for the relevant insurances.
- 15.3. The policy insuring against loss or damage for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

- 15.4. Nothing in this clause limits the obligations, liabilities or responsibilities of REIPP under the terms of this Agreement or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by REIPP in accordance with these obligations, liabilities or responsibilities provided that, if REIPP fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under this Agreement, and ZESCO neither approved the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by REIPP.

## **16. TERMINATION**

### Termination for Default

- 16.1. If either Party (the “Defaulting Party”) commits a material breach of any of its obligations under this Agreement, the other Party may by notice in writing require the Defaulting Party to make good the failure or breach and to remedy it within a reasonable time to be specified in the notice.
- 16.2. Without prejudice to any other rights of REIPP under this Agreement or otherwise, REIPP shall be entitled to terminate this Agreement if ZESCO (a “ZESCO Event of Default”):
- (a) fails to comply with a notice from REIPP under clause 16.1 within the specified time;
  - (b) commits a material breach of its obligations under this Agreement;
  - (c) assigns, transfers or otherwise disposes of any of its rights, benefits or obligations under this Agreement in breach of section 28;
  - (d) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against it, compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events;
  - (e) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:



## REFIT Grid Connection Agreement for Zambia

- (i) for doing or forbearing to do any action in relation to the Agreement; or
  - (ii) for showing or forbearing to show favor or disfavor to any person in relation to this Agreement;
- (f) fails to procure the issue of the Taking-Over Certificate or the Minimum Works Taking-Over Certificate by the date, which is ninety (90) days after the Target Completion Date.

In any of these events or circumstances, REIPP may, upon giving fourteen (14) days' notice to ZESCO, terminate this Agreement provided that, in the case of sub-clause 16.2(d), above REIPP may by notice terminate the Agreement immediately.

16.3. Without prejudice to any other rights of ZESCO under this Agreement or otherwise, ZESCO shall be entitled to terminate this Agreement if REIPP (an "REIPP Event of Default"):

- (a) REIPP fails to comply with a notice from ZESCO under clause 16.1;
- (b) commits a material breach of its obligations under this Agreement
- (c) REIPP assigns, transfers or otherwise disposes of any of its rights, benefits, or obligations under this Agreement in breach of section 28 or otherwise substantially fails to perform this Agreement within fourteen (14) days after receiving written notice of such failure;
- (d) REIPP becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against it compounds with its creditors, or carries on business under a receiver, trustee or manager for the benefit of its creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events;
- (e) REIPP gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:
  - (i) for doing or forbearing to do any action in relation to this Agreement; or

- (ii) for showing or forbearing to show favor or disfavor to any person in relation to the Agreement,
- (f) REIPP fails to make payment of any amount of money which is due and payable to ZESCO under this Agreement or the Connection Agreement within fourteen (14) days of service of a formal written demand by ZESCO, where the amount fell due and payable twenty one (21) days prior to the date of service of a formal writer demand;
- (g) the Connection Agreement is terminated or is rendered void, ineffective or unenforceable for any reason;

In any of these events or circumstances, ZESCO may, upon giving fourteen (14) days-notice to REIPP, terminate the Agreement provided that, in the case of sub-clauses 16.3(d) or 16.3(g), ZESCO may by notice terminate this Agreement immediately.

- 16.4. The rights, claims and liabilities of each Party under this section 16 shall be without prejudice to any antecedent rights, claims and liabilities of each of the Parties under this Agreement arising prior to the date of such termination.
- 16.5. Neither Party shall have any right to terminate this Agreement except as provided in this section 16 . Each Party's rights and obligations in the event arising as a result of termination of this Agreement are set out exhaustively in this Agreement.

#### Termination for prolonged Force Majeure

- 16.6. If a Force Majeure Event has occurred and continued for a period of one hundred and eighty (180) days from the date of its occurrence, then either Party shall be entitled to serve upon the other Party twenty eight (28) days-notice to terminate this Agreement. If at expiry of such period of twenty eight (28) days, such Force Majeure Event shall still continue, then this Agreement shall terminate.

#### Consequences for Termination

- 16.7. The provisions of the Implementation Agreement shall govern the consequences of the termination of this Connection Agreement as a result of –
  - (a) a ZESCO Event of Default;

- (b) an REIPP Event of Default;
- (c) a prolonged Force Majeure Event (whether as a result of Other Force Majeure or as a result of Political Force Majeure)

**17. INDEMNITY**

17.1. ZESCO shall indemnify and keep indemnified REIPP and its employees, agents, contractors and consultants from and against all claims, damages, losses and expenses (including legal fees and expenses) to the extent that they arise out of or result from the ZESCO Works or any other works being carried out by or on behalf of ZESCO.

These indemnification obligations shall be limited, other than in the case of accident or injury to the employees, agents, consultants and sub-contractors of ZESCO or the EPC Contractor the claims, damages, losses or expenses which occur in connection with this Agreement and which are:

- (a) attributable to bodily injury, sickness, disease or death, or to damage to or loss of property (other than the Works); and
- (b) caused by a breach of this Agreement, negligence or other legally actionable wrong by ZESCO or anyone directly or indirectly employed by REIPP or for whom REIPP is otherwise responsible.

17.2. REIPP shall indemnify and keep indemnified ZESCO and its employees, agents, contractors and consultants from and against all claims, damages, losses and expenses (including legal fees and expenses) to the extent that they arise out of or result from the REIPP Works or any other works being carried out by or on behalf of ZESCO.

These indemnification obligations shall be limited, other than in the case of accident or injury to the employees, agents, contractors and consultants of REIPP, to claims damages losses or expenses which occur in connection with the performance of this Agreement and which are:

- (a) attributable bodily injury, sickness, disease or death, or to damage to or loss of property (other than the Works); and
- (b) caused by a breach of the Agreement, negligence or other legally actionable wrong by ZESCO or anyone directly or indirectly employed by ZESCO or for whom ZESCO is otherwise responsible.

17.3. Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of revenue, loss of production, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with this Agreement, other than under section 13 or clause 17.1 or clause 17.2 (as applicable) or in the event of termination under section 16.

17.4. In all cases the Party claiming a breach of contract or any other right under this Agreement (except in case of indemnities) shall be obliged to take all reasonable measures to mitigate the loss or damage suffered or which may be suffered or the cost of expense incurred.

## **18. OWNERSHIP OF ASSETS**

18.1. All Works procured and installed under this Agreement, shall upon the Completion Date become ZESCO's property in accordance with the ownership boundary is as shown on the diagram in section 0 (Schedule 1).

## **19. CAPITAL CONTRIBUTION REIMBURSEMENT**

19.1. The portion of the Capital Contributions made by the REIPP to ZESCO in respect of ZESCO Works under this Agreement, and that are not needed or used by the REIPP shall be paid for by ZESCO by way of a Monthly Capital Contribution Reimbursement Charge as set out in the PPA between the REIPP and ZESCO.

## **20. REPRESENTATIONS AND WARRANTIES**

20.1. ZESCO represents and warrants to REIPP that:

- (a) it is a validly existing legal entity under the laws of the Republic of Zambia which on the date of this Agreement is majority-owned by Government of the Republic Zambia;
- (b) it is a limited company incorporated under the laws of the Republic of Zambia which has been in continuous existence since incorporation;
- (c) it has the full legal ability and authority to enter into and carry out its obligations under this Agreement and this Agreement constitutes a valid, legally binding and enforceable obligation of ZESCO;

- (d) subject to clauses 3.1 and 5.1, all approvals necessary to allow ZESCO to enter into this Agreement and to carry out the transactions contemplated hereby have been given or received and remain in full force and effect;
- (e) there are no applicable constitutional provisions, laws, regulations, decrees or rules of the governmental authorities of the Republic of Zambia in force on the date of execution of this Agreement or any provisions of any organizational document of ZESCO or of any agreement by which ZESCO is bound, which restrict or prohibit the ability of ZESCO to enter into and perform the terms of this Agreement;
- (f) this Agreement does not conflict with any provisions of any law, including any regulations of the Republic of Zambia as in effect on the date of execution of this Agreement; and
- (g) at the date of this Agreement no litigation, arbitration or administrative proceedings before any court or arbitrator or authority are presently pending or to the best of the ZESCO's knowledge are being threatened against ZESCO or any of ZESCO's assets, which might materially or adversely affect ZESCO's ability to perform its obligations under this Agreement.

**20.2. REIPP represents and warrants to ZESCO that:**

- (a) it is a validly existing legal entity under the laws of the Republic of Zambia;
- (b) it is a limited company incorporated under the laws of the Republic of Zambia which has been in continuous existence since incorporation;
- (c) it has the full legal ability and authority to enter into and carry out its obligations under this Agreement and this Agreement constitutes a valid, legally binding and enforceable obligation of REIPP;
- (d) subject to clauses 3.1 and 5.1 all approvals necessary to allow REIPP to enter into this Agreement and to carry out the transactions contemplated hereby have given or received and remain in full force and effect;
- (e) there are no applicable constitutional provisions, laws, regulations, decrees or rules of the governmental authorities of the Republic of

Zambia in force on the date of execution of this Agreement or any provisions of any organizational document of REIPP or of any agreement by which REIPP is bound, which restrict or prohibit the ability of this Agreement;

- (f) this Agreement does not conflict with any provisions of any law, including any regulation of the Republic of Zambia as in effect on the date of execution of this Agreement; and
- (g) at the date of this Agreement no litigation, arbitration or administrative proceedings before any court or arbitrator or authority are presently pending or to the best of REIPP's knowledge are being threatened against REIPP or any of REIPP's assets which might materially or adversely affect REIPP's ability to perform its obligations under this Agreement.

**21. DISPUTES**

- 21.1. Any dispute in terms of this Connection Agreement shall be settled in accordance with the dispute resolution mechanism and procedures provided for in the Implementation Agreement.

**22. GOVERNING LAW AND JURISDICTION**

- 22.1. This Agreement (and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to this Agreement or its formation) shall be governed by and construed in accordance with the applicable Laws of Zambia.

**23. NO PARTNERSHIP**

- 23.1. Nothing in this Agreement and no action taken by the Parties pursuant to this Agreement shall constitute, or be deemed to constitute, the Parties a partnership, association, joint venture or other co-operative entity.

**24. CONFIDENTIAL INFORMATION**

- 24.1. Each Party shall:

## REFIT Grid Connection Agreement for Zambia

- (a) not and shall procure that no director, officer or employee or adviser or agent of it shall use or disclose to any person Confidential Information; and
- (b) use all reasonable endeavors to prevent the use or disclosure of Confidential Information by any person.

24.2. Clause 24.1 does not apply to:-

- (a) disclosure of Confidential Information to or at the request of the other Party;
- (b) use or disclosure of Confidential Information required to be disclosed by law or any applicable stock exchange;
- (c) disclosure of Confidential Information to professional advisers for the purpose advising the relevant Party; or
- (d) Confidential Information which becomes generally known due to the other Party's breach of clause 24.1.

## 25. ENTIRE AGREEMENT

25.1. Each Party acknowledges and agrees with the other Party that:

- (a) This Agreement together with any Schedule, consents or documents referred to in this Agreement (together the "**Transaction Documents**") constitutes the entire and only Agreement between the Parties relating to the subject matter;
- (b) It has not been induced to enter into this Agreement in reliance upon nor have they been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever other than as expressly set out in this Agreement, to the extent that any of them have been, it unconditionally and irrevocably waives any claims rights or remedies which any of them might otherwise have had in relation thereto.

## 26. WAIVER

26.1. A waiver of any term, provision or condition of, or consent granted under, this Agreement shall be effective only if given in writing and signed by waiving or

consenting Party and then only in the instance and for the purpose for which it is given.

26.2. No failure or delay on the part of any Party in exercising any right, power or privileges under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such rights, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

26.3. No breach of any provision of this Agreement shall be waived or discharged except with the express written consent of the Parties.

26.4. The rights and remedies herein provided (Except in relation to or arising as a result of termination) are cumulative with and not exclusive of any rights or remedies provided by law, except to the extent expressly provided herein.

## **27. COSTS**

27.1. Save as expressly otherwise provided in this Agreement each of the Parties shall bear its own legal, accountancy and other costs, charges and expenses connected with the negotiation, preparation and signing of this Agreement and any other agreement incidental to or referred to in this Agreement.

## **28. ASSIGNMENT AND SUB-CONTRACTING**

28.1. This Agreement shall be binding on and shall ensure to the benefit of ZESCO and REIPP and their respective successors and permitted assigns.

28.2. Save as expressly provided by this Agreement, the PPA or the Implementation Agreement, neither ZESCO nor REIPP may assign, transfer or otherwise dispose of all or any of its rights, benefits or obligations under this Agreement without the prior written consent of the other.

## **29. CONSENTS AND APPROVALS**

29.1. Save where any of this Agreement provides that any approval may be given or withheld in one Party's absolute discretion, each Party shall act in good faith and deal in a timely and diligent manner in relation to the giving of any approval under this Agreement.



29.2. Subject as otherwise expressly provided in this Agreement, neither the giving of any approval, knowledge of the terms of any agreement or document nor the review of any document or course of action by or on behalf of a Party shall relieve the other Party of any of its obligations under this Agreement or of its duty to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, knowledge or review in question.

**30. INVALIDITY**

30.1. If any provision of this Agreement is or becomes (whether or not pursuant to any judgment or otherwise) invalid, illegal or unenforceable in any respect under the law of any jurisdiction:

- (a) The validity, legality and enforceability under the law of that jurisdiction of any other provision; and
- (b) The validity, legality and enforceability under the law of any other jurisdiction of that or any other provision,

shall not be affected or impaired in any way thereby.

**31. NOTICES**

31.1. Any approval, notice, demand, or other communication given or made under or in connection with the matters contemplated by this Agreement shall be in writing and shall be delivered personally or sent by electronic e-mail, fax or prepaid post (air mail if posted to or from a place outside Zambia):

**In the case of REIPP to:**

[Contact Details]

**In the case of ZESCO to:**

ZESCO LTD  
Stand No. 6949,  
Great East Road,  
Lusaka, Zambia  
Fax: (+260 1) 222753, (260 1) 225074  
Attention: Managing Director

And shall be deemed to have been duly given or made as follows:

- (a) If personally delivered, upon delivery at the address of the relevant Party;

- (b) If sent by post, three Business Days after the date of posting;
- (c) If sent by air mail, seven Business Days after the date of posting; and
- (d) If sent by electronic e-mail or fax, when dispatched(subject to successful transmission);

Provided that if, in accordance with the above provision, any such notice demand or other communication would otherwise be deemed to be given or made after 17:00 hours such notice, demand or other communication shall be deemed to be given or made at 09:00 hours on the next Business Day.

31.2. A Party may notify the other Party to this Agreement of a change to its name relevant addressee, address or fax number for the purposes of clause 31.1 and that such notification shall only be effective on:

- (a) The date specified in the notification as the date on which the change is to take place; or
- (b) If no date is specified or the date specified is less than five Business Days after the date on which notice is given, the date falling five Business Days after notice of any such change has been give.

## **32. COUNTERPARTS**

32.1. This Agreement may be executed in any number of counterparts, which together shall constitute one agreement. Any Party may enter into this Agreement by executing a counterpart and this Agreement shall not take effect until it has been executed by all Parties.

## **33. DEFAULT INTEREST**

33.1. If either Party does not receive payment of any amount, which is due and payable under section 11, the other Party (the "Recipient") shall be entitled to receive interest, which shall accrue from day to day on the percentage points 6% above six months LIBOR.

33.2. The Recipient shall be entitled to this payment without formal notice, and without prejudice to any other right or remedy.

**34. AMENDMENTS**

34.1. Save as otherwise provided in this Agreement, no amendment or variation to this Agreement shall be valid unless it is made in writing and signed by the duly authorized representatives of ZESCO and REIPP.

**35. PRIVACY TO CONTRACT**

35.1. No provision of this Agreement is intended to or does confer upon any third party, or any party providing funding for any part of the REIPP Works, any benefit or right enforceable at the option of that third party against either ZESCO or REIPP.

**IN WITNESS** whereof the common seals of both parties were hereby affixed the date and the year first before written.

The common seal of **ZESCO LIMITED** was hereby affixed in the presence of:

Managing Director:

Company Secretary:

The common seal of **REIPP LTD** was hereby affixed in the presence of:

Managing Director:

Company Secretary:

**36. SCHEDULE 1: REIPP WORKS AND ZESCO WORKS**

**36.1. Part 1: REIPP Works**

[Define REIPP Works to be constructed]

**36.2. Part 2: ZESCO Works**

- (a) Conduct feasibility studies and power system studies.
- (b) Develop and provide technical specifications for transmission lines, substation equipment and scope of works.
- (c) Approve designs and drawings based on the specifications.
- (d) Witness all Factory tests on all major equipment before shipment from manufacturers to Zambia.
- (e) Conduct site functional tests, inspections and checks on all completed works and commission all equipment.
- (f) Upon completion of the project, receive handover of equipment with 'As Built Documentation' both in hardcopy and electronic format all in English Language and according to IEC standard symbols.

**37. SCHEDULE 2: Necessary Consents**

**37.1. Part 1: – REIPP Initial Consents**

**37.2. Part 2: – ZESCO Initial Consents**

**37.3. Part 3: – REIPP’s Development Consents**

**37.4. Part 4: – ZESCO Development Consents**

**38. SCHEDULE 3: MILESTONE SCHEDULE**