
Office of Utilities Regulation

REQUEST FOR PROPOSALS

for

**Supply of up to 480 MW of Base-Load
Generating Capacity on a Build, Own and
Operate (BOO) Basis**



OFFICE OF UTILITIES REGULATION

December 13, 2010

Table of Contents

1	INVITATION TO APPLICANTS	5
2	INFORMATION FOR APPLICANTS	10
2.1	DEFINITIONS	10
2.2	BACKGROUND	12
2.3	JAMAICA ENERGY SECTOR POLICY	12
2.4	LEGAL AND REGULATORY FRAMEWORK FOR THE POWER SECTOR	12
2.5	PRIVATE SECTOR PARTICIPATION IN THE POWER SECTOR	13
2.6	ELECTRICITY DEMAND	14
2.7	INDICATIVE GENERATION EXPANSION PLAN	14
2.8	NON-GUARANTEED OF DATA ACCURACY	14
2.9	PROPOSALS SUBMITTED BY JPS	14
2.10	PROCUREMENT PROCESS AND SCHEDULE	15
3	INSTRUCTIONS TO APPLICANTS	16
3.1	GENERAL	16
3.1.1	Description of Proposal Process	16
3.1.2	Cost of Preparing Proposals	16
3.1.3	Sites and Site Visits	17
3.2	REQUEST FOR PROPOSAL	17
3.2.1	Clarifications	17
3.2.2	Amendments	18
3.3	PREPARATION OF PROPOSAL	18
3.3.1	Language of Proposal	18
3.3.2	Proposal Structure and Contents	19
3.3.3	Proposal Letter and Proposal Security	21
3.3.4	Description of Project and Technical Feasibility Report	21
3.3.5	Special Requirements	22
3.3.6	Proposed Tariff	23
3.3.7	Supporting Cost Data	24
3.3.8	Financial Data	24
3.3.9	Breakdown of Construction Costs	25
3.3.10	Technical Specifications and Data	25

3.3.11	Additional Supporting Data	26
3.3.12	Performance Specifications and Drawings	26
3.3.13	Construction Schedule	26
3.3.14	Proposal Validity	26
3.3.15	Proposal Security	27
3.3.16	Multiple and Alternative Proposals	28
3.3.17	Pre-Bid Meeting	29
3.3.18	Markings and Presentation of Proposal	29
3.4	SUBMISSION OF PROPOSAL	31
3.4.1	Sealing and Marking	31
3.4.2	Deadline for Submission of Proposal	31
3.4.3	Treatment of Late Proposals.....	32
3.4.4	Modifications and Withdrawals.....	32
3.5	PROPOSAL OPENING AND EVALUATION	33
3.5.1	Opening of Proposals	33
3.5.2	Confidentiality.....	33
3.5.3	Clarification of Proposals	34
3.5.4	Determination of Responsiveness	34
3.5.5	Correction of Errors.....	35
3.5.6	Evaluation of Proposals.....	35
3.6	STAGE 1 EVALUATION – APPLICANT’S ABILITY TO IMPLEMENT PROJECT.....	36
3.6.1	Evaluation Criteria – Stage 1	36
3.6.2	Track Record	36
3.6.3	Ability to Raise Financing for the Venture.....	37
3.6.4	Technical Capability and Qualification	37
3.6.5	Ability to conform to Government’s Energy policy initiatives	37
3.6.6	Ability to Implement the Project in a Timely Manner.....	37
3.6.7	Stage 1 Evaluation Scores	38
3.7	STAGE 2 EVALUATION – TECHNICAL EVALUATION	39
3.7.1	Evaluation Criteria – Stage 2.....	39
3.7.2	Choice of fuel	40
3.7.3	Proposed Technology	40
3.7.4	Proposed Efficiency of the Technology to be utilized.....	40
3.7.5	Availability and Suitability of Site	40
3.7.6	Design of Project Facilities	41
3.7.7	Arrangements for Construction	41
3.7.8	Arrangements for Operation and Maintenance.....	41
3.7.9	Compliance with Environmental and Statutory Requirements.....	41
3.8	STAGE 3 EVALUATION – ECONOMIC EVALUATION.....	41
3.8.1	Evaluation Criteria – Stage 3.....	41
3.8.2	Dependable Capacity.....	42
3.8.3	Plant Availability.....	42
3.8.4	Expected Operating Efficiency.....	42
3.8.5	Proposed Tariff.....	43
3.9	SELECTION CYCLE	43
3.9.1	Clarifications	43

3.9.2	Finalization.....	44
3.9.3	Performance Security Requirements	44
3.9.4	Applicant’s Responsibilities.....	45
4	SECURITY PACKAGE AND FINANCING STRUCTURE.....	46
4.1	SECURITY PACKAGE	46
4.1.1	Granting of Licence.....	46
4.1.2	Principles of Power Purchase Agreement.....	46
4.1.3	Fuel Supply	47
4.1.4	Required Insurance Coverage.....	47
4.1.5	Government Approvals	48
4.1.6	Principles of Engineering Procurement & Construction Agreement.....	48
4.1.7	Arrangement for Use of Site.....	49
4.1.8	Principles of Operation and Maintenance Agreement	49
4.2	FINANCING STRUCTURE	50
5	APPENDIX A: APPLICANTS PROPOSAL AND SUPPORTING DATA....	51
5.1	EXHIBIT 1: PROPOSAL LETTER.....	52
5.2	EXHIBIT 2: AFFIDAVIT	54
5.3	EXHIBIT 3A: APPLICANT ORGANISATION*	56
5.4	EXHIBIT 3B: ASSOCIATED ORGANISATION*	57
5.5	EXHIBIT 4: INFORMATION TO BE FURNISHED BY APPLICANT *	58
5.6	EXHIBIT 5: INFORMATION TO BE FURNISHED BY UN-INCORPORATED ASSOCIATIONS *	60
5.7	EXHIBIT 6: DETAILED INFORMATION ABOUT APPLICANT	62
5.8	EXHIBIT 7: PROJECT DESCRIPTION AND DATA	64
5.8.1	Plant Performance Guarantees	64
5.8.2	Description of Facilities	64
5.8.3	Location and Access to Site	64
5.8.4	Site Investigations	64
5.8.5	Site Ambient Conditions	64
5.8.6	Technical Feasibility Study	64
5.9	EXHIBIT 8: SPECIAL REQUIREMENTS	66
5.9.1	Project Logistics	66
5.9.2	Use of Local Labour.....	66
5.9.3	Site Utilities.....	66
5.9.4	Accessing of Inputs	66
5.9.5	Regulatory and Statutory Compliance.....	66
5.9.6	Proposed Project Implementation Schedule	67

5.10	EXHIBIT 9: PROPOSED TARIFF	68
5.11	EXHIBIT 10: COST DATA IN SUPPORT OF TARIFF	69
5.12	EXHIBIT 11: FINANCIAL DATA IN SUPPORT OF TARIFF	71
5.13	EXHIBIT 12: BREAKDOWN OF CONSTRUCTION COST.....	72
5.14	EXHIBIT 13: ADDITIONAL SUPPORTING DATA	72
5.15	EXHIBIT 14: PERFORMANCE SPECIFICATIONS AND DRAWINGS	73
5.16	EXHIBIT 15: PROPOSED PROJECT SCHEDULE	73
5.17	EXHIBIT 16: DISCLOSURE	73
6	APPENDIX B: NOTICE OF RECEIPT OF REQUEST FOR PROPOSAL ..	74
7	APPENDIX C: SOURCES FOR ADDITIONAL INFORMATION.....	75
8	APPENDIX D: FORM OF LICENSE	76

1 INVITATION TO APPLICANTS

- 1st. The Office of Utilities Regulations (the Office or OUR) hereby invites Applicants to provide new Generating Capacity amounting to 480MW net to the national grid of Jamaica on a Build Own and Operate Basis (BOO). This new capacity shall be base-load and is intended for the replacement of approximately 292 MW of aged plants¹ with the remainder to provide for load growth.

- 2nd. The OUR is a multi-sector regulatory agency which was established in 1995 by the Office of Utilities Regulation Act (as amended in 2000) from which it derives its mandate.

- 3rd. Section 4 (1) of the OUR Act sets out the functions of the Office; Section 4 (3) provides for the Office, in the performance of its functions under the Act to “undertake such measures as it considers necessary or desirable to -
 - (a) encourage competition in the provision of prescribed utility services;
 - (b) protect the interests of consumers in relation to the supply of a prescribed utility service;
 - (c) encourage the development and use of indigenous resources;
 - (d) promote and encourage the development of modern and efficient utility services; and
 - (e) enquire into the nature and extent of the prescribed utility services provided by a licensee or specified organization.”

- 4th. Schedule 1 of the Act defines Prescribed Utility Services over which the OUR has regulatory responsibility namely:
 1. The provision of telecommunication services;
 2. The provision of public passenger transportation by road, rail or ferry;
 3. The provision of sewerage services;
 4. The generation, transmission, distribution and supply of electricity; and
 5. The supply or distribution of water.

¹ Aged plants are plants over 33 years old.

- 5th. Sector specific legislation and instruments such as the All-Island Electric Licence 2001 granted to Jamaica Public Service Company Limited (JPS) sets out specific provisions, consistent with the principles elaborated in the OUR Act, as to the Office's functions in the particular sector and/or its relationship to the service provider. The management and administration of the procurement process for new generating plant capacity as well as the preparation of the Least Cost Expansion Plan was transferred to the OUR by means of an agreement in 2007 between the Government of Jamaica (GOJ) and Marubeni Corporation acting through its affiliate Marubeni Caribbean Power Holding Inc. (Marubeni), consequent on the sale of Mirant JPSCo (Barbados) SRL's (Mirant's) shares in JPS to Marubeni. The OUR has established the regulatory policy which provides the guidelines for the addition of new generating capacity. This can be found on the OUR's website (www.our.org.jm)
- 6th. The Ministry of Energy and Mining (MEM) has portfolio responsibility for the energy sector. The Ministry, in its National Energy Policy 2009 - 2030 has identified fuel diversification as one of its main objectives. The policy clearly states that as part of the diversification strategy that "In the short to medium term, natural gas would be the fuel of choice for generation of electricity and production of Alumina". The Government is taking steps to introduce natural gas into Jamaica's energy supply mix.
- 7th. Prospective Applicants offering cogeneration solutions must submit their Proposals for consideration as part of this solicitation. The rules for cogeneration as outlined in the Guidelines for the Addition of Generating Capacity to the Public Electricity Supply System - June 2006, found on the OUR's website (www.our.org.jm) will apply.
- 8th. Pursuant to Condition 2 of the All Island Electric Licence, 2001, JPS has the exclusive right to transmit, distribute and supply electricity throughout Jamaica and is currently serving a population of over 2.7 million. At the end of 2009, JPS had a customer base of 584,623 including residential, commercial and industrial consumers. The gross peak demand to date is 644 MW and the average system load factor is approximately 74%. JPS supplies this demand from a functional firm system capacity² of approximately 785MW of which 190MW is provided by Independent Power Producers

² Functional system capacity is defined as capacity that is supplied from plants that are in serviceable condition.

- (IPPs). Of the 595 MW of capacity owned by JPS 292MW of its base-load capacity is over thirty-three (33) years old and represents some of the most inefficient plants on the system.
- 9th. There is also a number of self-producers of electricity in the country, with the largest being the bauxite alumina companies and the sugar refineries.
 - 10th. JPS was privatized by the GOJ in 2001 at which time 80% of the common equity was sold to Mirant JPSCo (Barbados) SRL (Mirant), an energy company having its principal office in Georgia, United States of America. The GOJ retained a 20% shareholding in JPS. On August 9, 2007 Marubeni Caribbean Power Holdings, Inc., a wholly owned subsidiary of Marubeni Corporation of Japan, purchased Mirant's majority shares in JPS. On March 4, 2009 Marubeni transferred 50% of its shares in Marubeni Caribbean Power Holdings Inc. to Abu Dhabi National Energy Company (TAQA) of the United Arab Emirates. TAQA has announced its decision to withdraw from the Marubeni TAQA Caribbean partnership in the first quarter of 2011. With the withdrawal of TAQA, Marubeni will continue as the majority shareholder in JPS until a new investment partner is identified.
 - 11th. JPS has an extensive transmission and distribution system and provides approximately 95% penetration for the island. The transmission system includes approximately 400 km of 138 kV lines and nearly 800 km of 69 kV lines.
 - 12th. JPS' tariff regime is currently set at five (5) year intervals based on a Performance Based Rate-Making Mechanism (PBRM). The last tariff review was effected in October 2009.
 - 13th. Based on the 2010 indicative Generation Expansion Plan, which is available on the OUR website: www.our.org.jm, a block of 480MW is required over the next six (6) years, which is the subject of this Request for Proposal (RFP). This is required to be commissioned in two tranches: 360MW by January 2014 and a further 120MW by January 2016.
 - 14th. The OUR invites interested entities to submit proposals for the supply of one or more plants of varying configurations up to 480 MW of new base-load generating capacity to the national grid on a BOO basis. Where the proposed technology dictates, plant design ratings should be based on the chosen site's ambient conditions. Alternative proposals will be considered.
 - 15th. The OUR has determined that the indicative all-in avoided cost of electricity is US\$0.1005/kWh and will be seeking to qualify Proposals offering overall

tariffs reflective of this cost. Further details on the indicative all-in avoided cost can be obtained on the OUR website: www.our.org.jm

- 16th. Sources for additional information that may be useful to Applicants are listed in Appendix C. Proposals should be submitted in accordance with this RFP and all submissions will be evaluated in accordance with the criteria specified herein. The Applicant is also required to make full and frank disclosure of any liabilities, lawsuits, debts etc. that could reasonably be expected to affect the Applicant's ability to arrange the necessary financing or its ability to successfully implement the proposed project.
- 17th. Applicants that present solutions that are commensurate with the provisions of the Government of Jamaica's Energy policy 2009 – 2030, with respect to the short to medium term choice of fuel, will be considered most responsive.
- 18th. Requests for additional information, including information on the existing JPS and IPP owned generating facilities and operations, and/or questions concerning the tender exercise, may be submitted in writing to:

Office of Utilities Regulation
Third Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10
Jamaica, W.I.
Attention: Mr. Peter Johnson - Project Manager, Electricity Generation

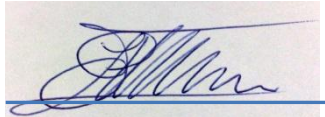
Telephone: (876) 968 6053
Facsimile: (876) 929 3635
E-mail: 480mwrfp@our.org.jm

- 19th. Bids must be marked **“Proposal for Provision of up to 480 MW of Base-Load Generating Capacity on a Build Own and Operate Basis”** and deposited in the Tender Box provided at the address below by 3:00 pm EST on Thursday March 31, 2011.

Office of Utilities Regulation
Third Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10
Jamaica, W.I.

- 20th. Bids must be accompanied by a non-refundable processing fee of One Hundred Thousand United States Dollars (US\$100,000.00), along with the required Proposal Security.
- 21st. Electronic bidding will not be permitted and late bids will be rejected. A soft copy of the Proposal in searchable PDF format or equivalent, along with a functional electronic copy of its financial model in a Microsoft Excel spread sheet or compatible format is to be provided with each submission.
- 22nd. Bidders are invited to witness the opening of the bids at the address above at 3:15 p.m. EST on **March 31, 2011**.
- 23rd. Thank you for your interest and we look forward to receiving your Proposal.

Yours sincerely,



Peter Johnson
Project Manager, Electricity Generation
OFFICE OF UTILITIES REGULATION

2 INFORMATION FOR APPLICANTS

2.1 DEFINITIONS

The following terms will have the meanings defined herein:

Term	Definition
Applicants	Entities that submit Proposals to develop the Project.
Day	Unless otherwise specified, "Day" shall mean a calendar day.
Dependable Capacity	The amount of sustained capacity in kW from the Complex after commissioning as determined by periodic testing.
Facility/ Complex	Combination of Plants.
Fixed Payment	Is the component of the monthly invoice which accounts for the fixed costs including cost of construction, fixed O&M costs and capital recovery costs (debt service and return on equity) which becomes due for that period.
Generating Unit	Smallest individual generating set in a Plant
Government	Government of Jamaica
Highest Ranked Applicants	Determined in accordance with Section 3.8.1 of the Instructions to Applicants
Jamaica Public Service Company Limited	A vertically integrated electric utility and the sole retailer of electric power in Jamaica operating under the All-Island Electric Licence, 2001.
Licence	Licence granted by the Minister pursuant to Section 3 of the Electric Lighting Act authorizing the power provider to supply electricity.
LNG Project	A project to introduce natural gas into Jamaica in the form of Liquefied Natural Gas ("LNG")
Minister	Minister of government with portfolio responsibility for energy
Ministry	Ministry with portfolio responsibility for energy
Office of Utilities Regulation	Jamaican statutory entity established under the Office of Utilities Regulation Act and which is responsible for regulating utilities including entities involved in power generation, transmission and

(OUR)	distribution on a commercial basis.
Plant	Combination of Generating Units including auxiliaries
Project	The design, financing, construction, ownership, operation and maintenance of the generation facilities and all activities incidental thereto.
Project Agreements	Collectively, the Power Purchase Agreement, Licence and all other related agreements necessary for development and operation of the Project.
Project Company	A company duly incorporated under the laws of Jamaica which will build, own and operate the Project.
Project Sponsor	An Applicant that has been selected in accordance with the RFP evaluation criteria and/or has executed the Project Agreements.
Proposal	The Applicant's written offer based on the covenants, terms and conditions as contained in the RFP for building, owning and operating the Project.
Proven Generating Technology	Power generation technology that meets the local statutory and environmental standards and that has been in successful commercial operation for at least five years.
RFP	Collectively, all the covenants, terms and conditions contained in this document the "Invitation to Applicants" and the "Instructions to Applicants" contained in this document including all sections and appendices.
SCADA	System Control and Data Acquisition
Security Package	The documents and agreements outlined in Section 4 of this RFP.
Site	The land and other places to be used by the Project Company for the construction, operation and maintenance of the Project.

2.2 BACKGROUND

- 24th. JPS has an extensive transmission and distribution system which covers the length and breadth of Jamaica. The transmission system includes twelve (12) 138 kV lines of approximately 400 km and sixty two (62) 69 kV lines of approximately 800 km in length. The system consists of twelve (12) 138/69 kV inter-bus transformers with a total capacity of 798 MVA and fifty seven (57) 69 kV transformers which supplies the primary distribution system at 24kV, 13.8 kV and 12 kV with capacity of approximately 1030 MVA.
- 25th. Standard conductors mostly of dimensions 595 MCM and 394.5 MCM are used throughout the Transmission system. Varied sizes of conductors are used on the distribution systems.
- 26th. The system experiences total losses inclusive of technical and non-technical of over 20%.

2.3 JAMAICA ENERGY SECTOR POLICY

- 27th. Jamaica's National Energy Policy 2009 – 2030 can be found on the Ministry of Energy and Mining's website (<http://www.mem.gov.jm/>). The document can be accessed at the following hyperlink http://www.mem.gov.jm/PDF_Files/Energy_Policy/Energy%20Policy%20-%20October%2021,%202009.pdf

2.4 LEGAL AND REGULATORY FRAMEWORK FOR THE POWER SECTOR

- 28th. The legal and regulatory framework governing the Jamaican power sector is encapsulated in the following:
- The OUR Act 1995 (as amended)
 - The Jamaica Public Service Company Limited, All Island Electric Licence, 2001 as may be amended from time to time
 - OUR's Regulatory Policy on Guidelines for the addition of Generating Capacity to the Public Electricity Supply System: June 2006
- 29th. These documents are available for viewing and may be down-loaded from the OUR website (<http://www.our.org.jm/>).

2.5 PRIVATE SECTOR PARTICIPATION IN THE POWER SECTOR

- 30th. Since the mid 1990's the GOJ has pursued the inclusion of private sector participation in the electricity sector. The total available generating capacity supplying the JPS grid amounts to approximately 785 MW (this amount does not include unit no. 1 Old Harbour 30MW, which is presently out due to major equipment failure since 2008). Approximately 190 MW of this capacity is owned by Independent Power Producers (IPPs) and the remainder by JPS.
- 31st. Of the 595 MW of capacity owned by JPS 292 MW of base-load plants are in excess of thirty-three (33) years old and are among the most inefficient in the system.
- 32nd. Current IPPs contracted to supply firm capacity to JPS are as follows:
- Jamaica Private Power Company Limited - 60 MW (slow speed diesel)
 - Jamaica Energy Partners - 124 MW (medium speed diesel)
 - Jamalco - 5 MW (Oil fired steam)
- 33rd. Current IPPs contracted to supply energy to JPS are as follows:
- Wigton Wind Farm with installed capacity of 20.7 MW
 - Jamaica Broilers supplying approximately 2 MW on an as available basis
 - Munro, Wind Farm - JPS, 3 MW
- 34th. Recently awarded proposal for firm capacity due in December 2011:
- Jamaica Energy Partners, West Kingston - 65.5 MW (medium speed diesel)
- 35th. Proposals in progress for energy from renewable sources:
- Wigton Wind Farm expansion, 14 MW, due 2011
- Maggotty Hydro - JPS, 6.37 MW due in April 2013

- 36th. Aside from the Wigton Wind Farm, renewable energy sources also include a number of small hydroelectric power plants with installed capacity totalling approximately 22 MW. Annual energy generation from renewable energy sources now accounts for about 5.5% of total energy generation.

2.6 ELECTRICITY DEMAND

- 37th. Electricity consumption in Jamaica is dictated by the pattern of daily economic and domestic activities. An analysis of the electricity peak demand and energy forecast is outlined in the OUR document “2010 – 2030 Peak Demand and Energy Forecast” that can be found on the OUR website www.our.org.jm.

2.7 INDICATIVE GENERATION EXPANSION PLAN

- 38th. The OUR has prepared the 2010 Generation Expansion Plan which is available on the OUR Website: www.our.org.jm. The document provides details on the existing system, capacity projections requirements and the indicative cost for the electricity generating system for the period 2010 – 2029. It is intended that the procurement process will determine the actual least cost.

2.8 NON-GUARANTEED DATA ACCURACY

- 39th. All information and data provided by the OUR with this RFP are furnished solely for the convenience of the Applicant and are not intended as representations or warranties. Neither the OUR nor its consultants shall be responsible for the accuracy or completeness of such information, investigations, records or interpretations. The Applicant shall be responsible for its own investigation to establish sufficient and accurate information in support of its Proposal. The Applicant assumes all risks associated with the Project, and no adjustments will be provided or made based on the Applicant's interpretation of the information provided.

2.9 PROPOSALS SUBMITTED BY JPS

- 40th. Under provisions contained in its Licence, JPS may submit Proposals in response to this RFP in competition with other Applicants. Any such Proposal will be evaluated in like manner to all other Proposals in accordance with the criteria set out in this RFP.

2.10 PROCUREMENT PROCESS AND SCHEDULE

The proposed process and timetable are as follows:

	<u>ACTIVITY</u>	<u>DATE</u>
1.	Issue of Request for Proposal	- December 13, 2010
2.	Submission of Intention to Bid (Appendix B)	- January 14, 2011
3.	Pre-bid meeting	- January 21, 2011
4.	Deadline for Submission of Proposals by Applicants	- March 31, 2011
5.	Complete Evaluation of Proposals	- May 31, 2011
6.	Notify Highest Ranked Applicants	- June 10, 2011
7.	Complete negotiation of Project Agreements	- December 9, 2011
8.	Begin Construction	- January 10, 2012
9.	Proposed Commissioning Date – First Tranche	- January 2014
10.	Proposed Commissioning Date – Second Tranche	- January 2016

3 INSTRUCTIONS TO APPLICANTS

3.1 GENERAL

3.1.1 Description of Proposal Process

- (a) All information requested of the Applicant shall be provided in its Proposal.
- (b) Applicants shall submit all information and documents described in or required by inter alia the annexes, exhibits and appendices of this RFP. If necessary, additional sheets may be attached to its Proposal.
- (c) Each page of the proposal including the annexes, exhibits and appendices should be initialed by a person or persons duly authorized to sign on behalf of the Applicant and any associated individuals or companies. Such authorization shall be indicated by one or more written powers-of-attorney.
- (d) The OUR will not enter into any communications with Applicants except to provide clarification on the RFP and the procurement process. The OUR will respond in writing to requests for clarification which are submitted in writing in accordance with this RFP. All requests for clarification and the OUR's responses will be posted on the OUR's website and also communicated directly to those Applicants who have confirmed their intention to bid in accordance with Appendix B.
- (e) All documents submitted by the Applicants and marked confidential will be treated as confidential except technical data that is required for the Power Purchase Agreement, systems analysis and interconnection considerations, in which event they will be shared with the grid operator.
- (f) Proposals submitted by the Applicants will become the property of the OUR.

3.1.2 Cost of Preparing Proposals

- 41st. The Applicant shall bear all costs associated with the preparation and submission of its Proposals and the finalization and execution of the agreements comprising the Security Package. The OUR will in no instance be responsible or liable for these costs, regardless of the conduct or outcome of the procurement process.

3.1.3 Sites and Site Visits

- 42nd. The Applicant shall be responsible for all matters relating to siting for their proposed Facility(ies). The Applicant is advised to thoroughly investigate the proposed Sites, conditions and surrounding areas, and obtain or verify all information necessary for the preparation of its Proposal.
- 43rd. The Applicant should consult with the relevant government agencies and owners of the proposed Sites in order to get all necessary approvals and agreements required for implementation of the proposed Project. Applicants may consider lands existing between Port Esquivel and the Old Harbour power station for possible project location which they must identify and achieve access to on their own initiative. Notwithstanding, applicants may propose any site suitable for the technology being offered.
- 44th. Failure to fully investigate the Site shall not be grounds for the Applicant to subsequently alter its bid or the agreements comprising the Security Package, nor shall it be the basis for any claim.

3.2 REQUEST FOR PROPOSAL

3.2.1 Clarifications

- 45th. The OUR will respond in writing to any request for clarification where such request for clarification is received not later than thirty (30) Days before the deadline for submission of Proposals. Any Applicant requiring clarification of the RFP may notify the OUR in writing at the address listed below:

**Office of Utilities Regulation
3rd Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10
Jamaica, W.I.
Attention: Mr. Peter Johnson**

Telephone: (876) 968 6053
Facsimile: (876) 929 3635
E-mail: 480mwrfp@our.org.jm

- 46th. The reply in the form of a circular letter or Addendum will be distributed to all Applicants who have confirmed their intention to bid and also posted on the OUR's website.

3.2.2 Amendments

- 47th. No later than fourteen (14) Days prior to the deadline for submission of Proposals, the OUR may issue an Addendum which may delete, modify, or extend any provision of the RFP. The receipt of an Addendum by the Applicant shall be acknowledged promptly in writing and so noted in the Applicant's Proposal. The Applicant's late receipt of any Addendum or failure to acknowledge the receipt of any Addendum shall not relieve the Applicant of being bound by such Addendum.
- 48th. Unless the clarification or amendment to the RFP is in the formal manner described above, no representation or explanation to Applicants shall be considered valid or binding on the OUR as to the meaning of any provision of the RFP or as to the Project. Applicants are cautioned that no employee of the OUR or consultant to the OUR is authorized to explain or provide an interpretation of the RFP except as provided in this RFP, and that any interpretation or explanation, if not given in writing by the OUR pursuant to Section 3.2.1, must not be relied upon.
- 49th. In order to afford Applicants reasonable time in which to take a clarification or amendment into account in preparing their Proposals, the OUR may, at its discretion, extend the deadline for the submission of Proposals.

3.3 PREPARATION OF PROPOSAL

3.3.1 Language of Proposal

- 50th. The Proposal and all related correspondence and documents shall be written in the English language. Supporting documents and printed literature furnished by the Applicant with the Proposal may be in any other language provided they are accompanied by an appropriate translation in the English language. Supporting materials which are not translated may not be considered. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.

3.3.2 Proposal Structure and Contents

- 51st. Applicants are required to use the prescribed forms as contained in the appendices. All items to be entered in the prescribed forms shall be typed or written in indelible ink.
- 52nd. **Applicants are required to return the Receipt at Appendix B to confirm their intention to submit a Proposal and are encouraged to do this promptly** in order to be included on the OUR's updated mailing list of prospective Applicants who will receive responses to queries, any Addenda to the RFP and other instructions directly from the OUR.

53rd. The information required in the Proposal as set out in Appendix A includes the following:

- Exhibit 1 Proposal Letter (Attachment – Proposal Security)
- Exhibit 2 Affidavit
- Exhibit 3A Applicant Organization
- Exhibit 3B Associated Organization
- Exhibit 4 Information to be furnished by Corporations
- Exhibit 5 Information to be furnished by Unincorporated Association
- Exhibit 6 Detailed Information to be furnished by Applicant:
 - Annex A Articles of Incorporation, etc.
 - Annex B Certificates of Registration
 - Annex C Curriculum Vitae of Key Personnel
 - Annex D Technical Capabilities
 - Annex E Experience
 - Annex F Audited Financial Statements
 - Annex G Valid Tax Compliance Certificate
- Exhibit 7 Project Description, Data and Feasibility Report
- Exhibit 8 Special Requirements
- Exhibit 9 Proposed Tariff
- Exhibit 10 Cost Data in Support of Tariff
- Exhibit 11 Financial Data in Support of Tariff
- Exhibit 12 Breakdown of Construction Costs
- Exhibit 13 Additional Supporting Data
- Exhibit 14 Performance Specifications and Drawings
- Exhibit 15 Proposed Project Schedule
- Exhibit 16 Disclosure

- 54th. For the purpose of determining the experience and technical capability of an Applicant comprised of more than one entity including an unincorporated association, the experience and technical capability of each member shall be combined for evaluation.
- 55th. For determining the combined financial capability of an Applicant comprised of more than one entity including an unincorporated association, each member shall complete and submit “Annex F of Exhibit 5 – Audited Financial Statements” for evaluation.
- 56th. The Applicant must submit a substantially responsive Proposal i.e. one which conforms to all terms, conditions and specifications of the RFP without material deviation or reservation. Failure to comply with this instruction will result in disqualification of the Applicant.
- 57th. Where applicable, the Applicant must prepare the Proposal by completing the exhibits, annexes and appendices.
- 58th. A Proposal may be rejected if it is illegible or contains omissions, erasures, alterations, additions, or irregularities; except for those alterations necessary to correct errors made by the Applicant, in which case such corrections shall be initialled by the person or persons signing the Proposal.

3.3.3 Proposal Letter and Proposal Security

- 59th. The Applicant shall complete the Proposal Letter and provide the necessary Power(s) of Attorney as required. The Applicant shall also provide the Proposal Security in the form indicated.

3.3.4 Description of Project and Technical Feasibility Report

- 60th. Applicant shall provide a Project Feasibility Report in accordance with Exhibit 7.

3.3.5 Special Requirements

Plant Configuration

- 61st. The request is for net 480MW of generating capacity in which no trip of a single generating set or connection to the network shall be greater than 120MW.

Logistics

- 62nd. The Project Sponsor shall be responsible for all material and equipment shipment(s) into Jamaica for the Project. The Applicant shall identify and verify the sufficiency of port facilities, transportation networks, customs requirements, taxes, duties, fees and visas required to implement the Project.

Labour

- 63rd. The Project Sponsor shall be responsible for all matters relating to use of local labour and shall recognize the rights of local labour including the right to form or belong to trade unions.

Site Utilities

- 64th. The Project Sponsor shall, at its own expense, arrange for, develop and maintain utilities at the Site to execute the Project, including but not limited to:
- Potable Water;
 - Sanitary and Sewer Facilities;
 - Telephone;
 - Construction Power.

Inputs

- 65th. The Project Sponsor/Project Company shall make its own arrangements for the procurement of all inputs required for completion and operation of the Project. This includes getting familiarized with the GOJ's initiative for the introduction of natural gas as the fuel supply of choice.

Environmental and Statutory Requirements

- 66th. Applicants are required to submit an initial environmental impact report indicating expected impacts on the physical, ecological and socioeconomic environments.
- 67th. The Project Sponsor shall ensure that the Project satisfies all applicable environmental and statutory requirements and will be required to provide a full Environmental Impact Assessment Report in conformance with the requirements of the relevant government agencies prior to commencement of construction.

Project Milestone Schedule

- 68th. The Project Company shall supply the OUR with a detailed Project Milestone Schedule and shall commence construction of the Project on the date agreed with the OUR and shall complete construction in accordance with the specified deadline.

3.3.6 Proposed Tariff

- 69th. The Applicant shall submit its proposed Tariff in accordance with Exhibit 9. Additional backup sheets and calculations may be submitted as necessary to explain the Applicant's Tariff.
- 70th. Tariff and supporting Cost Data shall be submitted by the Applicant for its Proposal. The Tariff and supporting Cost Data shall be for the execution and completion of the Project as defined in the Proposal.
- 71st. For calculating the Capacity Price, Fixed O&M Price, Variable O&M Price and Fuel Price the Applicant shall follow the instructions set out below. Additionally, all components of the prices should be clearly outlined in the Tariff model.
- 72nd. The Applicant shall calculate its Tariff based on the following parameters:
- Interest during construction should be included in accordance with the construction schedule.
 - Energy sold is to be based on the Dependable Capacity of the Plant and expected availability. For the Proposal tariff calculation purposes only, it should be assumed that the Plant(s) will be dispatched at the proposed Dependable Capacity at all times less the time estimated for planned and

unplanned outages. It should be noted, however, that during operations the Plant(s) will be subject to economic dispatch by JPS.

- All of the Project Company's fixed costs will be compensated through a fixed payment to be paid by the grid operator which will take into account Plant availability and Dependable Capacity. To the extent that Dependable Capacity is proposed and not available when required, appropriate liquidated damages will apply.
- All of the Project Company's variable costs will be compensated through a variable payment to be paid by the grid operator which will take into account Fuel Price and the Variable O&M Price
- The components of the Tariff that may be indexed after commencement of operation are set out in the table in Exhibit 9. The base for these will be the cost data to be provided by the Applicant in the Proposal and should be as of thirty (30) Days prior to the deadline for submission of Proposals. The Tariff should therefore be based on cost data as of thirty (30) Days prior to the bid submission deadline.
- All assumptions regarding the costs of variables which will impact the Tariff are to be clearly stated.
- Expected costs associated with accessing the Site should be included.
- The Applicant shall comply with the customs duties, import controls and tax requirements and include these in the cost estimates.
- The Tariff and all associated costs shall be quoted by Applicants in United States Dollars. However, all payments will be made in equivalent Jamaican Dollars.

3.3.7 Supporting Cost Data

73rd. The Applicant is required to provide the Cost Data requested as per Exhibit 10 in support of its Tariff calculations.

3.3.8 Financial Data

74th. Applicant is required to provide the financial information as per Exhibit 11. The Tariff calculations shall be based on the structure of financing defined in Exhibit 11, which allows the Applicant to prepare a Financing Structure with different levels of equity based on the proposed level of borrowing.

75th. In support of its Tariff calculations, cost components must be accompanied by a functional electronic copy of its financial model that demonstrates the relationships between the inputs, conversion factors, any other considerations and outputs in a Microsoft Excel spread sheet file or compatible format. That is, the components of the fixed and variable tariff should be clearly shown in the working financial model.

3.3.9 Breakdown of Construction Costs

76th. Applicant(s) are required to submit a detailed breakdown of capital costs as per Exhibit 12.

3.3.10 Technical Specifications and Data

77th. Applicant shall submit its proposed technical design which would allow the Facilities to meet the proposed minimum functional specifications to be included in the PPA. Of necessity, the minimum functional specifications and other technical data will be made available to the grid operator in light of the fact that same will be a key factor in the procurement process. The critical elements to be addressed in the proposed minimum functional specifications include inter alia the following:

- Expected net Plant(s) output profile with details of expected variations on a daily, weekly, monthly and annual basis as appropriate;
- Provisions for the Plant to supply services to the network such as: spinning reserve for the system, black start capabilities and reactive power for voltage control as required.
- Design for proposed Generating Units, other proposed facilities and associated equipment;
- Compliance with relevant environmental and statutory requirements;
- Plant(s) must be able to operate on the JPS network in parallel with other Generating Units;
- Proposals offered which incorporate the fuel of choice for electricity generation in the short to medium term as stated in the GOJ's National Energy Policy (2009 - 2030) will be allocated greater weighting in accordance with this RFP.
- Proposals which offer dual fuel capabilities with the fuel of choice for electricity generation in the short to medium term as stated in the GOJ's

National Energy Policy (2009 – 2030) as one of the options will be allocated greater weighting in accordance with this RFP.

- Plant(s) must be able to start and operate independently of the system;
- Plant(s) rated output must be 50 Hz, 3 Phase and 0.85 power factor.
- High voltage is expected to be based on an acceptable entry point on the existing JPS grid and required interconnection facilities must be included in the Proposal;
- Vibrations, noise and emissions shall be at acceptable levels and comply with existing regulatory requirements;
- Fault levels and protection systems must be acceptable based on JPS grid requirements;
- All utility requirements for interconnection with JPS grid must be complied with, including those relating to the supply of reactive power.

3.3.11 Additional Supporting Data

78th. The Proposal shall address the specific items requested in Exhibit 13, entitled “Additional Supporting Data”.

3.3.12 Performance Specifications and Drawings

79th. Detailed specifications and necessary drawings must be provided in accordance with Exhibit 14.

3.3.13 Construction Schedule

80th. The Proposal shall contain the Applicant’s detailed schedule for the implementation of the project in accordance with Exhibit 15.

3.3.14 Proposal Validity

81st. All Proposals shall remain valid for a period of one (1) year from the Deadline for submission of Proposals. Any Proposal offering less than the stipulated Proposal validity shall be rejected.

82nd. Prior to expiry of the original Proposal’s validity period, the OUR may request one or more of the Applicants to extend the validity of their Proposal and the Proposal Security for a specified period. The request and the responses thereto shall be made in writing. An Applicant may refuse the

request without forfeiting its Proposal Security. An Applicant agreeing to the request will not be required nor permitted to modify its Proposal, but will be required to extend the validity of its Proposal and Proposal Security accordingly. The provisions of Instructions to Applicants, regarding discharge and forfeiture of Proposal Security shall continue to apply during the extended period of Proposal validity.

3.3.15 Proposal Security

- 83rd. Subject to the provisions of Section 3.3.16 regarding the Proposal Security payable where a base proposal and alternative proposal(s) are submitted, each Applicant shall furnish, as part of its Proposal, a Proposal Security in the amount of one percent (1%) of the expected total capital cost of the proposed Project.
- 84th. The Proposal Security shall, at the Applicant's option, be in the form of a certified cheque, or an unconditional letter of credit from a reputable financial institution.
- 85th. The Proposal Security shall be valid for one (1) year from the Deadline for submission of Proposals.
- 86th. Any Proposal not submitted with a Proposal Security acceptable to the OUR shall be rejected.
- 87th. The Proposal Security shall be forfeited without any notice, demand, or other legal process:
- If an Applicant withdraws its Proposal during the period of Proposal validity; or
 - If an Applicant's Proposal contains any false statements or material misrepresentations; or
 - In the case of a successful Applicant, if it fails within the specified time limits to:
 - Execute the Project Agreements, or
 - Furnish the required Performance Security.
- 88th. The Proposal Security shall be returned to an Applicant:
- In the event that the Proposal Security has expired

- In the event that the Applicant withdraws its Proposal before the Deadline for submission of proposals
- If the Applicant's Proposal is determined to be non-responsive to the RFP requirements
- In the event that the Project Agreements have been concluded for the quota of 480MW capacity which has been filled by other Applicants
- In the event that the Applicant has executed the Project Agreements and has furnished the required Performance Security

3.3.16 Multiple and Alternative Proposals

- 89th. Applicants may submit more than one Proposal and/or alternative Proposals. Each such Proposal shall comply fully with the requirements of the RFP.
- 90th. Each Applicant shall pay the required processing fee of \$100,000.00 regardless of the number of Proposals and/or alternative proposals submitted. Note however, each set of Proposal and its alternative(s), if applicable, shall be submitted with its own Proposal Security of one percent (1%) of the highest total capital cost of the proposals in the set.
- 91st. The attention of Applicants is drawn to the provisions regarding the rejection of Proposals which are not substantially responsive to the requirements of the RFP. Each Proposal and alternative Proposal must meet the critical technical requirements identified in the Instructions to Applicants.
- 92nd. In the case of multiple Proposals, each such Proposal shall be submitted separately and shall be evaluated independently of each other.
- 93rd. In the case of alternative Proposals the Applicant must clearly identify one of the Proposals as its base or preferred proposal and the other(s) as the alternative(s) to that base or preferred Proposal. Each such Proposal shall be evaluated on its own merit in accordance with the evaluation criteria set out in the RFP.
- 94th. For the avoidance of doubt, where an Applicant submits multiple Proposals any one or more of an Applicant's multiple Proposals may be recommended for grant of Licence to supply electricity to the JPS grid. However, in the event that an Applicant submits a base or preferred Proposal and alternative Proposal(s), only one of these Proposals can be so recommended.

3.3.17 Pre-Bid Meeting

- 95th. The OUR intends to host a Pre-Bid Meeting on the date indicated in the procurement schedule set out in Section 2.10.
- 96th. The purpose of the Pre-Bid Meeting is to answer any questions prospective Applicants may have concerning the RFP. Prospective Applicants may continue to submit questions concerning the RFP in writing to the OUR up to thirty (30) Days before the Deadline for Submission of proposals. No further submissions regarding the RFP will be entertained after that time.
- 97th. Any additional information or any modifications to the RFP will be made available by the OUR exclusively through the issuance of an Addendum to the RFP and will be issued directly to prospective Applicants who have confirmed their intention to Bid in accordance with Appendix B and will also be published on the OUR's website.
- 98th. Notice of the Pre-Bid Meeting will be issued directly to prospective Applicants who have confirmed their intention to submit a Proposal in accordance with Appendix B and will also be published on the OUR's website.
- 99th. Prospective Applicants are therefore **strongly encouraged** to submit their intention to bid and their questions to the OUR as soon as possible.

3.3.18 Markings and Presentation of Proposal

- 100th. Applicants shall prepare one (1) original and five (5) copies of the documents comprising the Proposal and similarly for any Alternative Proposals as described in Instructions to Applicants. One original of the completed Proposal is to be clearly marked "ORIGINAL OF PROPOSAL," and all other completed copies are to be clearly marked "COPY OF PROPOSAL." An Applicant also submitting an Alternative Proposal must also clearly identify the proposals as "Base" and "Alternative." In the event of any discrepancy between the original and any copy, the original shall prevail.
- 101st. If the Proposal consists of more than one volume, Applicant must clearly number the volumes constituting the Proposal and provide an indexed table of contents for each volume.
- 102nd. The Proposal shall be signed by a person or persons duly authorized to bind the Applicant to the Proposal. Proof of authorization shall be furnished in

the form of a written Power-of-Attorney which shall be attached to the Proposal Letter. All pages of the Proposal where entries or amendments have been made shall be initialled by the person or persons signing the Proposal.

103rd. The complete Proposal shall be without alterations except as necessary to accord with instructions issued by the OUR or to correct errors made by the Applicant. All such corrections shall be initialled by the person or persons signing the Proposal.

104th. Applicants may form a joint venture for the purpose of submitting a Proposal and shall then also comply with the following requirements:

- One of the partners shall be nominated as the managing partner and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;
- The managing partner shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture;
- All partners of the joint venture shall be jointly and severally liable for the actions of the joint venture and the managing partner, and a relevant statement to this effect shall be included in the agreement entered into by the joint venture partners
- A copy of the agreement entered into by the joint venture partners shall be submitted with the Proposal.

3.4 SUBMISSION OF PROPOSAL

3.4.1 Sealing and Marking

- 105th. The Applicant shall submit one (1) Original and five (5) Copies of the Applicant's Proposal in sealed envelopes or boxes on the Deadline for submission of Proposals. The envelopes containing the Proposals must be addressed to the OUR as follows:

**Office of Utilities Regulation
Third Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10
Jamaica, W.I.**

- 106th. Below the above address the following must be written in bold letters:
- 107th. **“PROPOSAL TO BUILD, OWN AND OPERATE UP TO 480 MW POWER GENERATION PROJECT IN JAMAICA”**
- 108th. **“SEALED PROPOSAL – DO NOT OPEN PRIOR TO 3:00 P.M. ON MARCH 31, 2011”**
- 109th. If the cover envelope or box is not sealed and marked as instructed, the OUR will assume no responsibility for the misplacement or premature opening of the Proposal submitted.

3.4.2 Deadline for Submission of Proposal

- 110th. Proposals marked as specified above shall be deposited in the Tender Box provided at the address below by **3:00 p.m. on March 31, 2011.**

**Office of Utilities Regulation
Third Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10
Jamaica, W.I.**

- 111th. Proposals must be accompanied by a non-refundable processing fee of **One Hundred Thousand United States Dollars (US\$100,000.00)** and the required Proposal Security.
- 112th. Electronic bidding will not be permitted and late bids will be rejected. A soft copy of the Proposal in searchable PDF format or equivalent along with a functional electronic copy of its financial model in a Microsoft Excel spread sheet or compatible format is to be provided with each submission.
- 113th. Applicants are invited to witness the opening of the Proposals at the address above at 3:15 p.m. on March 31, 2011.
- 114th. The OUR may, at its sole discretion, extend the deadline for submission of Proposals by issuing an Addendum in accordance with Instructions to Applicants, after which all rights and obligations of the OUR and Applicants shall be subject to the new deadline.

3.4.3 Treatment of Late Proposals

- 115th. It is the sole responsibility of the Applicants to ensure that the OUR receives its Proposal by the date and time specified above. Any Proposal received after the Deadline for submission of Proposals will not be considered. The Applicant(s) will be so notified and the Proposal(s) will be returned unopened.

3.4.4 Modifications and Withdrawals

- 116th. Applicants may modify or withdraw their Proposal(s) after submission, provided that the modification or notice of withdrawal is received in writing by the OUR prior to the prescribed Deadline for submission of Proposals.
- 117th. Applicants' modification or notice of withdrawal shall be prepared, sealed, marked and delivered in accordance with the provisions of Instructions to Applicants for the submission of Proposals, with envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" as appropriate.
- 118th. Subject to Instructions to Applicants, no Proposal may be modified subsequent to the Deadline for submission of Proposals.
- 119th. Withdrawal of a Proposal during the interval between the Deadline for submission of Proposals and the expiration of the period of Proposal validity specified in this RFP will result in the forfeiture of the Proposal Security.

3.5 PROPOSAL OPENING AND EVALUATION

3.5.1 Opening of Proposals

- 120th. The OUR will open the Proposals in respect of submissions made pursuant to Instructions to Applicants, in a public session at 3:15 p.m. on March 31, 2011. All persons present shall sign a register evidencing their attendance.
- 121st. Proposals, for which a notice of withdrawal has been submitted, pursuant to Instructions to Applicants, will not be opened. Otherwise, the OUR will examine Proposals to determine whether they are complete, whether the requisite Proposal Securities have been furnished, whether the documents have been properly signed, and whether the Proposals are generally in order.
- 122nd. At the Proposal opening, the OUR will announce:
- Evidence of payment of the processing fee
 - The Proposal Security
 - The proposed capacity
 - Type of plant
 - Total Project Cost

3.5.2 Confidentiality

- 123rd. After opening of the Proposals, the OUR shall not be obliged to disclose to Applicants information relating to the examination, any clarification, evaluation and comparison of Proposals, and recommendations concerning the award of the Project(s) except as required by this RFP.
- 124th. All documents submitted by the Applicants and marked confidential will be treated as confidential except in instances where technical data is required for the Power Purchase Agreement, systems analysis and interconnection considerations, in which event they will be shared with the grid operator. Notwithstanding the foregoing, the OUR shall be at liberty to release any or all information submitted by Applicants to the National Contracts Commission, the Contractor-General, the Minister with portfolio responsibility for energy or as may be required by law.
- 125th. Any effort by or on behalf of an Applicant to influence the OUR or any of its officials in the process of examination, clarification, evaluation and

comparison of Proposals, and in decisions concerning the award of the Project, will result in the rejection of the Applicant's Proposal and forfeiture of their Proposal Security.

- 126th. The OUR will not return the original nor the copies of any Proposal submitted by an Applicant, once it has been opened. The evaluation report will become a public document after execution of all the Project Agreements.

3.5.3 Clarification of Proposals

- 127th. During the examination, evaluation and comparison of Proposals, the OUR may, at its discretion, ask the Applicants for clarification of their Proposals. Requests for clarifications and responses shall be in writing and no change in the Tariff or substance of the Proposal shall be sought, offered or permitted by the Applicant.

3.5.4 Determination of Responsiveness

- 128th. Prior to the detailed evaluation of the Proposals, the OUR will determine whether each Proposal is substantially responsive to the requirements of the RFP based on a review and evaluation of information provided by Applicant.
- 129th. For the purpose of this clause, a substantially responsive Proposal is one which conforms to all the terms, conditions and specifications of the RFP without material deviation or reservation. A material deviation or reservation is one which affects in a substantial way the scope, quality or performance of the Project, or which in the sole opinion of the OUR limits in a substantial way, inconsistent with the RFP documents, the OUR's rights or the Applicant's obligations and the rectification of which deviation or reservation would affect unfairly the competitive position of other Applicants presenting substantially responsive Proposals. If a Proposal is not substantially responsive to the requirements of the RFP, it will be rejected.
- 130th. Notwithstanding the above, the OUR reserves the right to accept or reject any Proposal, to waive minor informalities in Proposals received, and to annul the RFP process and reject all Proposals at any time prior to the recommendation for grant of Licence to supply electricity. Any or all

Applicants may be disqualified from the selection process and excluded from further consideration for, *inter alia*, any one of the following reasons:

- Submission of a Proposal to the OUR after the required deadline.
- Failure to submit required supporting documentation within the required timeframe.
- Failure to submit a Proposal with all forms completed and information and data provided as required by the OUR.
- Material inconsistencies in the information submitted.
- Misrepresentations in the completed Proposal and supporting documentation.

3.5.5 Correction of Errors

- 131st. Proposals determined to be substantially responsive will be checked for any arithmetic errors in computation and summation and recalculated if necessary. Quoted unit prices shall govern in the recalculations. Where there is a discrepancy between amounts in figures and in words, the amounts in words will govern. All corrections that could affect the comparative ranking of Proposals will be explained. All corrections are considered binding on the Applicant. Applicants affected by changes will be notified of the detailed changes. The Applicant must accept such arithmetic corrections or its Proposal will be rejected.
- 132nd. The amount stated in the Proposal will be adjusted in accordance with the above procedure for the correction of errors.

3.5.6 Evaluation of Proposals

- 133rd. The OUR will evaluate and rank only Proposals determined to be substantially responsive to the requirements of the RFP.
- 134th. Acting in its sole discretion, the OUR reserves the right to accept or reject any Applicant's Proposal and to reject all Proposals, without thereby incurring any liability to the affected Applicants. The OUR reserves the right not to recommend any Applicant for grant of Licence to supply

- electricity, and may terminate the selection process at any time without thereby incurring any liability to any Applicant.
- 135th. The selection process to be used by the OUR will involve the following stages:
- Stage 1: Evaluation of Applicants Ability to Implement Project
 - Stage 2: Technical Evaluation of Project
 - Stage 3: Economic Evaluation of Project
- 136th. Only Proposals which pass Stage 1 will be considered for Stage 2 and only proposals which pass Stage 2 will be considered for Stage 3.

3.6 STAGE 1 EVALUATION - APPLICANT'S ABILITY TO IMPLEMENT PROJECT

3.6.1 Evaluation Criteria - Stage 1

- 137th. During Stage 1, a detailed evaluation of the Applicant's ability to implement the project will be carried out. Applicants will be evaluated based on:
- Track record
 - Ability to raise financing
 - Technical capability and qualifications
 - Ability to conform to Government's Energy policy initiatives
 - Ability to implement project in a timely manner
 - Current Ownership of similar installations and/or related technologies and equipment
- 138th. The OUR wishes to attract Applicants which have a strong track record in the development of power generation projects.
- 139th. If an Applicant has insufficient experience in any specific area, it may associate itself with other individuals or companies, whose experience may be demonstrated in the Proposal.

3.6.2 Track Record

- 140th. Each Applicant must demonstrate experience in the development of power generation facilities with emphasis on the technology being proposed. This

includes demonstration of adequate knowledge of related construction, operation and maintenance practices.

3.6.3 Ability to Raise Financing for the Venture

- 141st. Each Applicant must demonstrate its ability to provide equity and raise loan capital such as would be required to finance the implementation of the proposed Project. The Applicant must provide a) a credit report from its bankers, b) audited financial statements for the past three (3) years supported by the parent entity's or equity partner's audited financial statements in the event that the Applicant's financial statements are insufficient for the purposes of the Project. If an Applicant associates with other individuals or companies, then the names, background information and financial statements for these individuals or companies must be provided.

3.6.4 Technical Capability and Qualification

- 142nd. An Applicant must provide evidence of having within its organization the technical capability to manage the anticipated needs for implementation of the proposed Project, as well as the operation and maintenance of the various systems.
- 143rd. Curriculum Vitae of key personnel in the areas of project management, project finance, engineering, plant construction, operations and maintenance, which the Applicant proposes to employ for technical support as well as those to be employed during the negotiation and implementation phases of the venture, shall be submitted.

3.6.5 Ability to conform to Government's Energy policy initiatives

- 144th. Applicants who have Proposals based on the fuel of choice for electricity generation in the short to medium term as stated in the GOJ's National Energy Policy 2009 - 2030 will receive the weighting allocated in this RFP.

3.6.6 Ability to Implement the Project in a Timely Manner

- 145th. Each Applicant should provide evidence of its ability to implement the project within the desired time frame. The Applicant should provide any available evidence of relevant engineering and design work as well as evidence of previous involvement in similar projects.

3.6.7 Stage 1 Evaluation Scores

146th. Each acceptable Applicant's Proposal will be evaluated in accordance with the following criteria (with allotted scores as shown):

A. Experience [20%]

- a. Scale of operations in power generation projects. (5%)
- b. Scope of activities in the development of power generation projects. (5%)
- c. Track record of successfully developing and operating power generation projects. (5%)
- d. Period of involvement in Scale (a) and Scope (b) above (5%)

B. Ability to Finance Project [35%]

- a. Audited financial statements and other supporting data and information for the last three (3) years will be analyzed to determine the financial condition, performance and capability of each Applicant and its associated entities. (5%)
- b. Capacity to borrow funds. (15%)
- c. Ability to provide equity:
 - i. From own sources (10%)
 - ii. From other sources (5%)

C. Technical Capability and Qualifications of Key Persons Employed or to be Contracted by Applicant [10%]

- a. Competence of key personnel (as evidenced by CVs) (4%)

b. Existing systems for management of engineering, construction and operations & maintenance of proposed facilities (3%)

c. Experience with existing technologies in power generation (3%)

D. Ability to conform to Government's Energy policy initiatives

Alignment with Government Energy policy with respect to fuel of choice (15%)

E. Ability to Implement the Project in a Timely Manner [10%]

Evidence of existing and workable plans and designs for the proposed or similar facilities using the technology on which the proposal is based.

F. Current Ownership of similar installations and/or related technologies and equipment [10%]

147th. Each Applicant will be evaluated based on the above criteria and scores and must achieve a minimum of 60% of the total score for its Proposal, with at least an achievement of 60% of ability to finance the project (category B), to be selected for Stage 2 Evaluation.

148th. The OUR reserves the right to solely determine the acceptability of an Applicant and is not bound to take into account any subsequent representation or further information provided to the OUR regarding the status of any particular Applicant.

3.7 STAGE 2 EVALUATION - TECHNICAL EVALUATION

149th. Proposals of Applicants who achieve or exceed the minimum required score at Stage 1 will be subject to a detailed technical evaluation at Stage 2.

3.7.1 Evaluation Criteria - Stage 2

150th. Proposals will be evaluated based on the following:

- Choice of fuel to be utilized [15%]

- Proposed Plant Technology [15%]
- Proposed Efficiency of the Technology to be Utilized [20%]
- Availability and Suitability of Proposed Site [20%]
- Design of Project Facilities [5%]
- Proposed Arrangements for Construction of Project Facilities [10%]
- Proposed Arrangements for Operation & Maintenance of Facilities [10%]
- Compliance with Environmental and Statutory Requirements [5%]

151st. With the exception of the “Choice of fuel to be utilized” category, a minimum of 50% of the allotted maximum score must be obtained for each category and the overall score for Stage 2 must exceed 60.

3.7.2 Choice of fuel

- Extent to which Applicant demonstrates ability to conform to government’s fuel diversification policy on the fuel of choice for electricity generation in the short to medium term as stated in the GOJ’s National Energy Policy 2009 – 2030 or proposals with dual fired technology where the main fuel is natural gas [15%]

3.7.3 Proposed Technology

- Years of successful commercial use of proposed technology [5%]
- Applicable current developments which would enhance feasibility of technology [10%]

3.7.4 Proposed Efficiency of the Technology to be utilized

- Plant efficiency with respect to heat rate. The lowest proposed heat rate by an Applicant qualified for stage 2 will be used as the base heat rate. Allocation of score for this category will be as follows: $20\% \times \text{base heat rate} / \text{proposed heat rate}$. [20%]

3.7.5 Availability and Suitability of Site

- Suitability of Proposed Site [10%]
- Demonstrated ability to secure proposed Site [10%]

3.7.6 Design of Project Facilities

- Suitability of proposed design [2.5%]
- Commercial experience of similar designs [2.5%]

3.7.7 Arrangements for Construction

- Proposed arrangements for construction of facilities [4%]
- Experience of proposed supply/construction /installation Contractor(s) [6%]

3.7.8 Arrangements for Operation and Maintenance

- Proposed arrangements for operation and maintenance of facilities [4%]
- Experience of proposed O&M Contractor/personnel [6%]

3.7.9 Compliance with Environmental and Statutory Requirements

- Proposed regulatory and statutory compliance as per Exhibit 8 [5%]

3.8 STAGE 3 EVALUATION - ECONOMIC EVALUATION

152nd. Proposals which are deemed to be technically feasible and acceptable will be subject to a detailed economic evaluation at Stage 3.

3.8.1 Evaluation Criteria - Stage 3

153rd. Economic evaluation will be based on the expected Plant output parameters and associated costs. The general objective will be to select a Project or Projects that will contribute to the overall power sector objective of providing a reliable supply of electricity at least cost to consumers.

154th. The Proposals will be evaluated based on:

- Expected dependable capacity and ability to dispatch the plant
- Expected plant availability
- Plant Operating Efficiency
- Proposed Tariff

- Proposed Fixed Charge component of Tariff
 - Proposed Variable Charge component of Tariff
 - Expected Price Escalations and effects on the Tariff
- 155th. Projects which result in the best expected value to consumers will be ranked highest. Expected value to consumers will be based on the OUR's determination of the expected impact of the Project on the generation system's Least Cost Expansion Plan and consumer tariffs. **Proposals which, when integrated into the generation least cost expansion plan, result in the lowest costs to consumers in the long term, will be ranked highest.**
- 156th. This approach to the economic evaluation is necessary in order to take into consideration not just the proposed tariffs but also the expected plant performance and related performance guarantees in order to arrive at the best value to consumers. Where expected plant performances are similar, the ranking methodology will effectively reduce the evaluation to a comparison based on the level of the proposed tariffs.
- 157th. Further details on the areas to be evaluated are as follows:

3.8.2 Dependable Capacity

- Maximum capacity
- Expected capacity variations based on plant availability
- Expected capacity constraints due to other factors
- Ability to dispatch plant

3.8.3 Plant Availability

- Expected Scheduled Maintenance Requirements
- Expected Forced Outage Rates

3.8.4 Expected Operating Efficiency

- Energy conversion efficiencies
- Expected O&M costs

3.8.5 Proposed Tariff

- Base Fixed Charge – capacity charge and fixed O&M charge
- Base Variable Charge – fuel charge and variable O&M charge
- Indexation of Costs – indexation for exchange rate, inflation, resource cost movements, as appropriate.

3.9 SELECTION CYCLE

158th. Applicants are advised that the following cycle of events has been established by the OUR for the selection of the successful Applicant(s) and implementation of the Project(s):

- (a) Receive Proposals;
- (b) Preliminary clarifications to address inconsistencies and correct arithmetic errors only;
- (c) Evaluation by or on behalf of the OUR and identification of the Highest Ranked Applicants;
- (d) Clarification meetings with the Highest Ranked Applicants;
- (e) OUR issues Notification of Selection to successful Applicant(s) and informs all others of their ranking;
- (f) OUR invites Highest Ranked Applicant(s) to negotiate and finalize Project Agreements;
- (g) Identification or Formation of Project Company;
- (h) Execute Project Agreements
- (i) Project Company provides Performance Security;
- (j) Unsuccessful Applicants are informed of Selection and Proposal Security is returned.

3.9.1 Clarifications

159th. If necessary, within sixty (60) Days after the Deadline for submission of Proposals, the OUR may seek clarification from an Applicant regarding its Proposal. The Applicant will also be advised of the date, time and place for

detailed clarification meetings between the OUR and such Applicant if so required.

3.9.2 Finalization

- 160th. Within ninety (90) days of the Deadline for submission of Proposals, the OUR will invite the Highest Ranking Applicants to finalize the Project Agreements. The OUR will notify the Highest Ranking Applicants of the date, time and location of any meetings for this purpose. The OUR may request that the Highest Ranking Applicants to extend their Proposal validity in accordance with Instructions to Applicants if necessary. Lower ranked Applicants will remain on standby.
- 161st. The OUR may proceed to a lower ranked Applicant if:
- (a) it decides that the finalization of the Project Agreements will not be completed within an acceptable time frame,
 - (b) it discovers that the Highest Ranked Applicant has made a material misrepresentation,
 - (c) the Highest Ranked Applicant deviates from the terms of its Proposal, or
 - (d) the Highest Ranked Applicant fails to provide or maintain security as required.
- 162nd. Upon execution and ratification of the Project Agreements and the furnishing by the Highest Ranked Applicant(s) of their Performance Security in accordance with the provisions of Instructions to Applicants, the OUR will promptly inform the remaining Applicants that their Proposals have been unsuccessful and discharge or return their Proposal Securities.

3.9.3 Performance Security Requirements

- 163rd. Within ten (10) Days after the later of the dates on which the Licence and PPA are signed, the Project Company shall furnish a Performance Security Deposit in the amount of 10% of the expected total capital cost of the Project. The Performance Security Deposit shall be in the form of either a) unconditional letter of credit or b) certified cheque issued by a reputable financial institution. All costs of obtaining and maintaining the Performance Security Deposit shall be borne by the Project Company.

- 164th. The Performance Security shall be valid until the Project Company posts a Construction Security Deposit. If the OUR determines that the successful Applicant has made any false representation, has failed to comply with the requirements of Instructions to Applicants, or has breached the provisions of any Project Agreement before the Construction Security Deposit is posted, the OUR shall be entitled to recommend the termination of the Licence and to draw upon the Performance Security Deposit.

3.9.4 Applicant's Responsibilities

- 165th. Each Applicant is expected to examine carefully all instructions, conditions, forms and terms in the RFP and all Addenda. The Applicant is also responsible for informing itself with respect to all conditions which might in any way affect the cost or the performance of the Project. Failure to do so, and failure to comply with the requirements of the RFP, will be at the Applicant's own risk, and no relief will be given for errors or omissions by the Applicant. Pursuant to Instructions to Applicants, Proposals which are not substantially responsive to the requirements of the RFP will be rejected.

4 SECURITY PACKAGE AND FINANCING STRUCTURE

4.1 SECURITY PACKAGE

4.1.1 Granting of Licence

166th. The Project Company will require a Licence from the Government of Jamaica (GOJ), which will be based on the recommendation of the OUR. Pursuant to the Licence, the GOJ will grant the Project Company the right to design, build, own, operate the Complex and sell electrical energy to the national grid under powers of the Electric Lighting Act. The Format of the Licence is attached as Appendix D.

4.1.2 Principles of Power Purchase Agreement

167th. The Project Company will enter into a Power Purchase Agreement (PPA) on or before financial closing. Pursuant to the PPA, the Project Company will build, own and operate the Complex and will sell power to the JPS Grid.

168th. The key Features of the PPA are as follows:

- The initial term will be for up to twenty (20) years from the date of commissioning of the Complex and may be extended for an additional period.
- The Complex will be dispatchable, subject to approved scheduled outages.
- The capacity of the Complex will be tested at regular intervals and the Project Company will be paid a fixed amount per kW of tested capacity up to the maximum agreed capacity.
- Payment will include a Fixed Payment and a Variable Payment:
 - The Fixed Payment will be based on agreed fixed costs including cost of construction, fixed O&M costs and capital recovery costs (debt service and return on equity).
 - The Variable Payment will be based on the Net Energy Output and the agreed Variable Price, which will be based on agreed variable costs.
- Liquidated damages will be assessed against the Project Company for:
 - Delays in commissioning

- Shortfalls in capacity
- Failure to meet dispatch requirements
- The Project Company will be required to provide Performance Security deposits
- Either Party may terminate the PPA under certain specified conditions.
- Certain tariff components may be indexed to reflect changes in costs faced by the Project Company that are due to factors outside its reasonable control.

169th. See Appendix E for form of Power Purchase Agreement.

4.1.3 Fuel Supply

170th. The Project Company shall enter into an agreement with an appropriate party for supply of fuel to be used by the Complex.

171st. In the case of dual fired plants, the secondary fuel should be procured at the most economic cost and such cost will be passed through at the plant's guaranteed conversion efficiency for that fuel.

4.1.4 Required Insurance Coverage

172nd. Unless otherwise expressly provided in the Project Agreements, the Project Company shall, at its sole expense, take out and maintain, in effect, at all times during the terms of the Project Agreements the required insurance coverage such as:

- All Risks Marine Cargo Insurance,
- All Risks Property Damage/Operational Insurance,
- Workmen's Compensation Insurance,
- Comprehensive Third Party Liability Insurance,
- Comprehensive Automobile Liability Insurance,
- Excess Umbrella Liability Insurance.

4.1.5 Government Approvals

173rd. The Project Company shall be solely responsible for securing all requisite approvals and permits such as environmental and developmental approvals from the relevant Government and statutory organizations.

4.1.6 Principles of Engineering Procurement & Construction Agreement

174th. The Project Company may enter into an Engineering, Procurement & Construction (EPC) Agreement with a reputable construction contractor to complete the design and construction of the Project at a fixed price, in accordance with the Project Milestone Schedule and to the specifications agreed in the PPA.

175th. The following are some of the terms and conditions that shall be included in the Construction Contract:

- The Contractor shall abide by all applicable laws in Jamaica.
- The Contract shall reflect the applicable provisions from the Project Agreements for which the Company is responsible.
- The Contract shall contain Plant performance guarantees by the Contractor.
- If construction is completed but the Plant fails to meet performance guarantees, the Contractor will be required to pay damages in an amount sufficient to cover at a minimum the liquidated damages that will be assessed under the PPA.
- The Contractor shall undertake to complete the Project in accordance with an agreed schedule consistent with the Project Milestone Schedule. In the event of failure to complete construction by the scheduled date, the Contractor shall be required to pay damages in an amount at a minimum sufficient to cover the liquidated damages that will be assessed under the PPA.
- The performance of the Contractor shall be assured by a Performance Bond. The amount of the Performance Bond should not be less than 10% of the total contract price. The Performance Bond shall cover the warranty period for the facilities.
- If the Contractor were to abandon construction or to fail to pursue construction with due diligence, the Project Company shall have the

right to replace the Contractor and require the Contractor to pay any additional costs resulting from its default.

- The Contractor shall provide an unlimited completion guarantee for the Project facilities which is assignable without the Contractor's consent.

4.1.7 Arrangement for Use of Site

176th. The Project Company shall be solely responsible for all matters relating to the Project Site including access and costs.

4.1.8 Principles of Operation and Maintenance Agreement

177th. The Project Company may enter into an Operations and Maintenance Agreement ("O&M Agreement") with a reputable Operations and Maintenance Contractor ("O&M Contractor"), if the Company intends to perform these functions via a contractor.

178th. The following are some of the terms and conditions that would be required in the O&M Agreement:

- The O&M Agreement shall reflect the applicable obligations of the Company under the Licence and PPA.
- The O&M Agreement shall specify various price components directly tied to the Tariff under the PPA and provide the explanation and adequate information for future adjustments.
- The O&M Agreement shall be specific in regards to the spare parts and consumables included in the base price.
- The O&M Agreement shall address any improvements or additions to be made to the plant in the future.
- The O&M Agreement shall provide for plant operations during emergency conditions.
- The O&M Contractor shall undertake to operate and maintain the Project consistent with the standards set forth in the PPA. In the event of failure to do so, the O&M Contractor will be required to pay damages in an amount at a minimum sufficient to cover the liquidated damages that will be assessed under the PPA.
- The performance of the O&M Contractor shall be assured by a Performance Bond.

4.2 FINANCING STRUCTURE

- 179th. The Project Company will be responsible for mobilizing the financing for the Project. Agreements required to secure financing for the Project will be entered into between the Project Company and the institutions providing the financing for the Project and shall be based on the financial plan presented by the Applicant in its Proposal. Any subsequent changes to the financial plan after finalization of the Project Agreements will require the approval of the OUR.
- 180th. The financial plan provided by the Project Company will describe the sources of funds and the terms of financing for both debt and equity as applicable. The terms of the proposed financing shall be outlined in the Proposal. The Project Sponsor shall also provide details on the different financing sources. The funds shall be in amounts sufficient to cover all applicable costs.
- 181st. Financing will be in the form of equity and debt. Repayment and returns on equity will not be guaranteed. At least 20% of the financing for the Project shall be in the form of equity.

5 APPENDIX A: APPLICANTS PROPOSAL AND SUPPORTING DATA

APPLICANT'S PROPOSAL

SUBMITTED BY:

ADDRESS:
.....
.....

TELEPHONE :.....

FACSIMILE:

E-MAIL:

5.1 EXHIBIT 1: PROPOSAL LETTER

Date:

Office of Utilities Regulation
3rd Floor, PCJ Resource Centre
36 Trafalgar Road
Kingston 10
Jamaica, W. I.

Attn: Mr. Peter Johnson

Re: Request for Proposal for the Supply of up to 480 MW of Generating Capacity on a Build, Own and Operate (BOO) Basis dated [] (RFP)

Dear Sir:

Having examined the captioned RFP, we, the undersigned, offer to design, finance, procure, construct, operate and maintain a [insert MW] [insert Type of Plant] Power Generation Project specified in the attached proposal (the "Proposal") and to supply electric power to the Jamaica Public Service Company Limited (JPS) Grid in conformity with the RFP and all Addenda, Appendices and Exhibits attached thereto. The total Project Cost as specified in Exhibit 10 attached hereto is [\$].

We agree to abide by this Proposal for the period of one (1) year from the deadline for submission of proposals as prescribed in the RFP and this Proposal shall remain binding upon us and may be accepted by the Office of Utilities Regulation (OUR) at any time before the expiration of that period. This Proposal shall constitute a binding offer until it expires or an agreement is executed which supersedes it.

We have provided and included herein a Proposal Security in an amount equal to 1% of the estimated project cost (US\$.....). We also enclose the non-refundable processing fee of One Hundred Thousand United States Dollars (US\$100,000.00).

We certify that (i) the information submitted as part of this Proposal to the OUR is complete and accurate and (ii) the Proposal has been submitted in the legal name of the entity which would be bound by any resulting agreements.

We understand that you are not bound to accept any proposal you may receive.
Yours sincerely,

Authorized Signature [*In full and initials*]:

Name and Title of Signatory:

Name of Entity:

Address:

Attachments - Proposal Security
- Power of Attorney

Signature
(Applicant shall submit a Power of Attorney for its Duly Authorized Representatives)

5.2 EXHIBIT 2: AFFIDAVIT

Affidavit

I,, being duly sworn do make oath and say as follows:

- 1) That I am of legal age and reside at:

.....
(Address)

.....
(Address)

.....
(Address)

- 2) That I am the of the
(Official Capacity)

....., corporation/association/company,
(Name of Firm)

duly organized under the laws of
(Name of Country)

- 3) That personally, and as for and
(Official Capacity)

on behalf of the corporation/association/company, I hereby certify that:

- a. All statements made in this Applicant's Proposal and in the required attachments are true and correct,
- b. This Proposal is made for the express purpose of developing the proposed power generation project,
- c. The Applicant will make available to the Office of Utilities Regulation (OUR) or any authorized agent of the OUR any information they may find necessary to verify any item in this Proposal or regarding the competence and general reputation of the Applicant,

- d. That I am duly authorized by the corporation/association/company to make these representations and to sign this Proposal.

Signature:
(Secretary/General Partner/ Individual Contractor/ Applicant)

SUBSCRIBED AND SWORN TO before me this day of 201.....

at

Notary Public:

5.3 EXHIBIT 3A: APPLICANT ORGANISATION*

Date:

1. Entity's Name:
2. Entity's Country of Incorporation:
3. Entity's Address:
.....
4. Entity's email contact:
5. Entity's Website:
6. Telephone No: Fax No:
7. Address of Registered Office:.....
.....
8. Local Contact and Address (if any):
9. Year Organized:
10. Type of Association:
11. Type and Scale of Operation:

* In the event that the Applicant is comprised of more than one entity, separate forms shall be submitted for each such entity.

5.4 EXHIBIT 3B: ASSOCIATED ORGANISATION*

Date:

1. Entity's Name:
2. Entity's Country of Incorporation:
3. Entity's Address:
.....
4. Entity's email contact:
5. Entity's Website:
6. Telephone No: Fax No:
7. Address of Registered Office:
.....
8. Local Contact and Address (if any):
9. Year Organized:
10. Type of Association:
11. Type and Scale of Operation:

* Individual form shall be submitted for each associated entity.

Submit additional sheets as necessary.

5.5 EXHIBIT 4: INFORMATION TO BE FURNISHED BY APPLICANT *

List below all stockholders and other persons owning 5% or more of stock or other interest.

	NAME	TYPES OF INTEREST OR NUMBER OF SHARES OWNED	VALUE	EXTENT OF CONTROL (%)**
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

* In the event that the Applicant is comprised of more than one entity, separate forms shall be submitted for each such entity.

** Equity holdings

OFFICIALS OF THE APPLICANT

MEMBERS OF THE BOARD OF DIRECTORS

	NAME	DESIGNATION
1.
2.
3.
4.
5.

State below the name of the individual who is actively managing the affairs of the Corporation.

NAME:

ADDRESS:

DESIGNATION:

Herewith attached is a certified copy of Resolution authorizing corporation's representative to file the Proposal and sign subsequent agreements.

* In the event that the Applicant is comprised of more than one entity, separate forms shall be submitted for each such entity.

5.6 EXHIBIT 5: INFORMATION TO BE FURNISHED BY UNINCORPORATED ASSOCIATIONS *

Date of Registration:

Securities and Exchange Commission Registration No:

State whether the Unincorporated Association is:

- General Partnership
- Limited Partnership
- Other

	NAME OF MEMBER OF UNINCORPORATED ASSOCIATION	ADDRESS	AGE	OCCUPATION	VALUE OF CONTRIBUTION
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
				TOTAL	

State below the name of the individual who is actively managing the affairs of the Unincorporated Association.

NAME:

ADDRESS:

.....

DESIGNATION:

Herewith attached is a certified copy of Appointment of business manager and his Authority.

* For each associated firm or partner.

5.7 EXHIBIT 6: DETAILED INFORMATION ABOUT APPLICANT³

1. ORGANISATION DOCUMENTATION, CLEARANCES AND EXPERIENCES

We/I hereby submit for your examination and consideration certified true/photocopies of the following:

ANNEX A - Articles of Incorporation and by-laws, or other organizational documents, in English.

ANNEX B - Certificate of registration with the relevant companies' registration authority.

ANNEX C - Curriculum Vitae of key personnel who will be responsible for developing, managing and operating the Project.

2. TECHNICAL CAPABILITY AND MANAGEMENT ABILITY

ANNEX D - For technical capability, literature/brochures describing Applicant's facilities and accomplishments and information on technical personnel resources.

ANNEX E - For experience, the Applicant shall list similar projects undertaken within the last ten (10) years.

For each project listed, the Applicant shall furnish the following detailed information:

- (a) Nature and location of project
- (b) Financing and equity structure for the project
- (c) Technical data/information on major developments implemented
- (d) Description of role performed by the Applicant in the project
- (e) Names of any engineering consultants
- (f) Names of any legal or financial advisors

³ For each firm or partner.

3. FINANCIAL CAPABILITY

We hereby submit as "ANNEX F" our audited "Financial Statements" for the last three (3) years.

4. TAX COMPLIANCE CERTIFICATE

We hereby submit as "ANNEX G" our valid tax compliance certificate⁴.

5. ADDITIONAL INFORMATION

We hereby submit additional information generally describing related projects and operations that we are currently implementing.

⁴ All Applicants who are registered or resident in Jamaica are required to submit a tax compliance certificate valid as at the Deadline for submission of Proposals.

5.8 EXHIBIT 7: PROJECT DESCRIPTION AND DATA

Applicant shall provide details regarding the Project under specific headings including the following:

5.8.1 Plant Performance Guarantees

- Net output to the JPS Grid after transformer losses
- Plant Availability
- Conversion efficiencies
- Environmental impact

5.8.2 Description of Facilities

- Description and explanation of technology to be used
- General plant specifications
- Major systems and equipment description

5.8.3 Location and Access to Site

- Location of Site
- Description of access route to Site
- Evidence of ability to secure use of Site

5.8.4 Site Investigations

- Evidence that the necessary investigations have been done to demonstrate suitability of Site including Site sub-surface investigations and fuel availability.

5.8.5 Site Ambient Conditions

- Expected Site ambient conditions and impact on plant output

5.8.6 Technical Feasibility Study

Applicant shall include a Project Feasibility Report with their bid which includes the following:

- Technology to be used;
- Expected plant output capacity;
- Output voltage and transformer specifications;

- Site civil works;
- Mechanical / Electrical equipment;
- SCADA interface facilities;
- Telecommunication and control systems;
- Site location and access;
- Results of any Site subsurface investigations confirming suitability;
- Expected Site conditions / meteorological data to support Project feasibility;
- Expected Plant output profile.

5.9 EXHIBIT 8: SPECIAL REQUIREMENTS

5.9.1 Project Logistics

- Details of proposed arrangements for supply and installation of Facilities.
- Evidence that local conditions have been duly considered and that there are no impediments to successful delivery and installation of the Facilities.

5.9.2 Use of Local Labour

- Plan for use of local labour
- Evidence that local labour considerations have been adequately considered

5.9.3 Site Utilities

- Evidence⁵ that adequate arrangements will be made to secure the necessary Site utilities including:
 - Potable Water;
 - Sanitary and Sewer Facilities;
 - Telephone;
 - Construction Power.

5.9.4 Accessing of Inputs

- Evidence that adequate arrangements have been made to ensure that the necessary inputs, for the proper implementation of the Project, including fuel, will be available.
- Evidence to indicate adequacy of the expected inputs for the proper implementation of the Project.

5.9.5 Regulatory and Statutory Compliance

- Environmental impact report explaining expected impacts of the Project on the physical, ecological and socioeconomic environments.
- Evidence that the standards of all relevant regulatory and statutory agencies will be met.

⁵ Evidence of adequate arrangement includes letters from the service providers/regulatory agencies or term sheet(s) in the case of fuel.

5.9.6 Proposed Project Implementation Schedule

- Applicant shall provide a detailed schedule which supports and confirms completion of the Project within the Proposal timeframe.
- Applicant's schedule shall be submitted in Gantt chart format and shall include all milestones for financing, engineering, procurement, shipping, construction, startup, testing, etc. as necessary for successful completion and operation of the Project.

5.10 EXHIBIT 9: PROPOSED TARIFF

Applicant shall submit its proposed Tariff along with supporting calculations, in writing and in a functional electronic copy of its financial model that demonstrates the relationships between the inputs, conversion factors, any other considerations and outputs in a Microsoft Excel spread sheet or compatible format. That is, the components of the fixed and variable tariff should be clearly shown in the working financial model. The Tariff shall be quoted in United States Dollars only, but payments will be in Jamaican Dollars.

The Tariff shall be presented by filling in the blank spaces in the following Table 5-1.

The base date for indexation of all prices shall be according to the exchange rates published in the Financial Times publication⁶ on March 24, 2011.

Table 5-1: Proposed Tariff

Tariff Component	Unit	Base Price	Basis for Adjustment	Frequency of Adjustment
Capacity Price	US\$/kW/Month		- US\$/J\$ Exchange Rate	Monthly
Fixed O&M Price	US\$/kW/Month		- US CPI - US\$/J\$ Exchange Rate	Annually
Variable O&M Price	US\$/kWh		- US CPI - US\$/J\$ Exchange Rate	Annually
Fuel Price	US\$/kWh		To be based on fuel type	Monthly

⁶ <http://markets.ft.com/ft/markets/researchArchive.asp?report=3SPT&cat=CU>

5.11 EXHIBIT 10: COST DATA IN SUPPORT OF TARIFF

Applicant shall submit details of its cost data in support of the Tariff. Costs shall be quoted in United States (US) Dollars.

Table 5-2: Proposed Capital Costs

CAPITAL COST ITEM	DESCRIPTION	PROPOSED COST (US \$)
Development Costs	Project development costs incurred prior to start of construction, including financial closing costs.	
Construction Costs	All costs related to supply and installation of the Facilities for delivering power to the JPS Grid including all applicable foreign and local taxes. See breakdown in Exhibit 12.	
Project Company Costs During Construction	Management and Insurance Costs Capitalized interest during construction Other costs including fees, etc.	
Working Capital	Working capital for initial operation and management.	
Capitalized O&M costs	Costs associated with operation and maintenance activities prior to commissioning.	
Other capitalized costs (if any)	Please give description	
TOTAL COST OF THE PROJECT		

“TOTAL COST OF THE PROJECT” is inclusive of contingency costs.

Table 5-3: Proposed Annual Operating Costs

COST ITEM	DESCRIPTION	PROPOSED ANNUAL COST (US \$)
Plant fixed operating and maintenance costs	Plant operating and maintenance costs which do not vary with Plant output including equipment and personnel costs, etc.	
Insurance costs	Cost of insurance during the operating period	
Fuel costs	Any direct costs related to accessing and/or obtaining the fuel to be used.	
Plant variable operating and maintenance costs	Plant operating and maintenance costs which vary with Plant output.	
Other operating costs	Please state, if any.	

5.12 EXHIBIT 11: FINANCIAL DATA IN SUPPORT OF TARIFF

The Tariff shall be based on a financing plan for the Project and supporting financial data relating to debt and equity. The Applicant shall submit details of the financing including the following:

Table 5-4: Project Financing

Financing Type	Source	Amount in USD	% of Total
EQUITY FINANCING	Project Sponsor		
	Contractor/Supplier		
	Other Sources (Applicant shall list)		
	TOTAL EQUITY		
DEBT FINANCING	Export Credits		
	Commercial Sources		
	Multilateral Sources		
	Other Sources		
	TOTAL DEBT		
TOTAL FINANCING			

In support of the financing plan, Applicant is required to submit financial data, including the following:

- Interest rates
- Grace periods
- Fees
- Conditionalities

Applicant shall submit commitment letters from the sources of financing. Supporting letters from the financing sources shall be accompanied by supporting documentation to verify that the sources are capable of meeting the commitments.

The amount indicated as “TOTAL FINANCING” shall be the total financing required for the Project, inclusive of contingency funds.

Applicant shall submit a financial model for the project which demonstrates its financial feasibility and sustainability.

5.13 EXHIBIT 12: BREAKDOWN OF CONSTRUCTION COST

Applicant shall submit a detailed breakdown of the construction cost by major components of the Project.

5.14 EXHIBIT 13: ADDITIONAL SUPPORTING DATA

Applicant shall provide the following Project information:

- Applicant's organization chart and key personnel for the management of the Project Company during pre-construction, construction and the operation stages of the Project, including resumes of key personnel showing past experience in performing their designated management position.
- Applicant's proposed chart and description of organization during the operation stage of the Project to include manpower requirements for operations and maintenance.
- Listing of proposed subcontracts for the major elements of the Project to include subcontractors' name, address, scope of supply or services and amount of subcontract.
- Applicant's proposed training program for Jamaican Nationals.
- Applicant's proposed Project insurance plan to meet the insurance coverage required under the Project Agreements.

The Applicant shall provide equipment experience including past performance data for three (3) continuous years of reliable commercial operation to include:

- Name, address, telephone and facsimile number of owner.
- Description and location of project.
- Operating history.

5.15 EXHIBIT 14: PERFORMANCE SPECIFICATIONS AND DRAWINGS

Applicant shall provide the specifications for the facilities, including detailed specifications for the major systems and equipment including:

- Manufacturer
- Model
- Codes/ standards
- Ratings

Applicant shall also provide available designs and drawings relating to the Facilities.

5.16 EXHIBIT 15: PROPOSED PROJECT SCHEDULE

Applicant shall provide a detailed project implementation schedule in a functional electronic Gantt chart compatible with Microsoft Project.

5.17 EXHIBIT 16: DISCLOSURE

Disclosure

The Applicant hereby represents that there are no liabilities, lawsuits, debts etc. that could reasonably be expected to affect the Applicant's ability to arrange the necessary financing for the successful implementation of the proposed Project except:

6 APPENDIX B: NOTICE OF RECEIPT OF REQUEST FOR PROPOSAL

The undersigned received (or accessed) the “Request for Proposal for Supply of up to 480 MW of Base-Load Generating Capacity on a Build, Own and Operate (BOO) Basis” on [INSERT DATE]

We have reviewed the package and we do [] do not [] (please check one), intend to submit a Proposal.

Further, we understand that our duly completed Proposal Document will be due on **March 31, 2011**.

At the present time, we anticipate our Proposal Document will be based upon the following corporate or joint venture arrangements:

Lead Firm :

Address :

Contact Details :

.....

Other Firm/Partner* :

Address :

Contact Details :

Applicant’s Representative :

(Name & Designation)

.....

(Signature)

Date :

* Details should be provided for each Other Firm/Partner.

7 APPENDIX C: SOURCES FOR ADDITIONAL INFORMATION

Applicants are required to perform their own due diligence in relation to the project. The OUR does not guarantee the accuracy of information provided by any of the various sources.

Applicants are advised to consult with the relevant agencies as deemed appropriate by them. These may include:

- 1) The Ministry with portfolio responsibility for Energy
- 2) The Petroleum Corporation of Jamaica
- 3) Jamaica Public Service Company Limited
- 4) Petrojam
- 5) National Environment and Planning Agency
- 6) Water Resources Authority
- 7) National Solid Waste Management Authority
- 8) National Works Agency
- 9) Local Authorities
- 10) Port Authority of Jamaica
- 11) Jamaica Customs
- 12) Ministry of Finance and the Public Service
- 13) Office of the Prime Minister

Applicants may also refer to relevant documents on the electricity sector that are posted on the OUR's website.

8 APPENDIX D: FORM OF LICENSE

THE ELECTRIC LIGHTING ACT
[name of Licensee]
Supply of Electricity Licence, 201[]

1. SHORT TITLE

This Licence may be cited as “[Licensee] Supply of Electricity Licence, 201[]”.

2. INTERPRETATION

2.1 In this Licence –

“**ELA**” means the Electric Lighting Act.

“**Control**” in relation to the Licensee, means the power of a person(s), and/or corporate entity to determine and implement the Licensee's policies and the day to day operations of such policies and the day to day operations of the licensed facilities or services, including inter alia, the construction, development and maintenance of the licensed facilities and provisioning of the licensed services.

“**Commercial Operations Date**” shall have the meaning given thereto in the relevant Power Purchase Agreement.

“**Government**” means the Government of Jamaica.

“**Governmental Authority**” means any ministry, agency of Government or statutory body and shall include any acts carried out by any of the said bodies in the exercise of government public policy.

“**Governmental Requirements**” means any Acts of Parliament, Proclamations, Regulations and Rules made thereunder and shall include inter alia, Government guidelines, policies and ministerial directives.

“**Licensed Business**” means the generation and supply of electricity as carried out under this Licence and any other licence required by Jamaican law.

“**Licensee**” is for the purposes of this Licence [name of Licensee].

“Minister” means the Minister with the portfolio responsibility for electricity.

“National Grid” means public electricity supply system in Jamaica but does not include the network used for the distribution of electricity to individual members of the public.

“Office” means the Office of Utilities Regulation.

“OUR Act” means the Office of Utilities Regulation Act, 1995 as amended.

“Owner” means each of [*insert the names of the partner entities with ownership interest in the Licensee, if applicable*]

“Owner Affiliate” means, with respect to any Owner, any entity that directly or indirectly through one or more intermediaries’ controls, or is controlled by, or is under common control with, such Owner.

“Power Purchase Agreement” means the agreement for the purchase of power concluded between the Licensee named in this Licence and the licensee named under the All Island Electric Licence 2001 or any successor or assignee operating the National Grid.

“Prescribed Utility Service” means the supply of electricity.

“Pro Forma Transaction” means

- (a) an assignment from one or more individuals to a body corporate owned or controlled by the same individual or individuals without any change in their relative interests;
- (b) an assignment from a body corporate to shareholders without effecting any change in the disposition of their interests;
- (c) a reorganization of a body corporate that involves no change in the beneficial ownership thereof;
- (d) an assignment or transfer -

- (i) from a body corporate to its wholly owned subsidiary or *vice versa*;
 - (ii) between wholly owned subsidiaries of the same holding company;
- (e) an assignment from a body corporate to another body corporate owned or controlled by the assignor's shareholders without a substantial change in their relative interests.

“Tribunal” means any tribunal established by the Minister or pursuant to any relevant legislation or instrument to hear disputes arising from a decision or failure to act by the Office.

- 2.2 This Licence shall be read and construed, subject in all respects to the provisions of the ELA, the OUR Act and any applicable legislation, statutory modification, consolidation or re-enactment thereto and all regulations or rules made pursuant thereto (the **“Acts”**). Unless the context otherwise requires, expressions in this Licence shall bear the same meanings ascribed to those expressions under the Acts.

3. GRANT OF LICENCE

- 3.1 The Minister, pursuant to the powers conferred under Section 3 of the Electric Lighting Act as well Section 4A of the OUR Act, hereby grants the Licensee a Licence authorising said Licensee to develop, operate and maintain a [*insert capacity and type*] generation power plant using [*insert type of energy/fuel resource*] in order to generate, sell and supply bulk electricity therefrom (“the Undertaking”) to the National Grid, subject however to the provisions of any Schedules attached hereto as well as the relevant statute.
- 3.2 This Licence shall be null, void and of no legal effect in the event that the Licensee fails to execute the relevant Power Purchase Agreement within [] of the date of this Licence or commission the generation power plant within [*insert time period*] of the date of this Licence.

4. DURATION

Subject to the provisions herein contained the term of this Licence shall begin to run from

the date hereof (hereinafter called "**the date of the Licence**"), notwithstanding that the Licensee's power to generate, sell and supply bulk electricity from the licensed facilities to the National Grid shall be for the term of **twenty (20) years** from the Commercial Operations Date and shall terminate on the twentieth (20th) anniversary of the relevant Commercial Operations Date, provided however that the Licensee shall have the right to sell such power to the National Grid arising:

- (a) as a result of the testing of the facilities prior to the Commercial Operations Date or;
- (b) as may be reasonably required by the National Grid prior to the Commercial Operations Date.

The Licensee may apply to the relevant authority for a new licence upon the expiry of the Licence.

5. ASSIGNMENT OF LICENCE

This Licence may not be assigned or transferred by the Licensee without the prior written consent of the Minister, such consent not to be unreasonably withheld.

- 5.1 The Licensee may, contingent on the prior approval of the Minister, assign its Licence or any rights thereunder or transfer control of its operations.
- 5.2 An application for approval of an assignment or transfer under this paragraph shall be made in writing to the Minister who shall grant such approval if he is satisfied, upon the recommendation of the Office, that the assignee satisfies the requisite requirements as regards the obligations imposed on the Licensee by this License or relevant legislation and regulations and is in all material respects a fit and proper person to hold such Licence.
- 5.3 Paragraph 5.2 shall not apply to a Pro Forma Transaction and the following provisions shall apply in relation thereto -

Within forty-five (45) days after the completion of the Pro Forma Transaction the Licensee shall-

- (i) submit to the Office, proof of the completion of the Pro Forma

Transaction either in the form of an application that is appropriate for the class of licence to which it relates or such other written correspondence as the Office may authorize, containing all of the information included in the application;

(ii) certify that the transaction is a Pro Forma Transaction;

5.4 Such Pro Forma Transaction shall not be recognized and shall be deemed null and void by the Office for the purposes of the obligations under this Licence if the provisions of paragraph 5.3 are not strictly adhered to in relation to such Pro Forma Transaction.

6. RATES/PRICES

The prices to be charged and/or rates to be applied by the Licensee in respect of the supply of electricity pursuant to this Licence shall be determined by the Office and included in the Power Purchase Agreement.

7. REGULATION

7.1 The Licensee in carrying out the Licensed Business shall be subject to regulation by the Office pursuant to the OUR Act, the ELA and any statutory modification, consolidation or re-enactment thereto and any other applicable legislation and all regulations and rules made pursuant thereto.

7.2 The Licensee shall comply with any order and/or directive made by the Office under the OUR Act as amended with all reasonable promptitude, or within any timeline set out in any such order or directive.

7.3 The Licensee shall provide such information, reports, and records as may be reasonably requested by the Office from time to time.

8. REGULATORY FEES

8.1 The Licensee shall pay to the Office an annual regulatory fee, the first of which shall become due and payable upon the issuance of this License and thereafter, each subsequent fee shall become due and payable upon the anniversary date of the issuance of this Licence. This fee shall be calculated based on the revenues as may be derived from the sale of energy to the power purchaser under the terms of the Power Purchase Agreement and shall be calculated as

follows:

Licence Fee (LF) = BUSP x 1PPR

Where BUSP = The portion of revenue attributable to the power purchaser in the audited financial statements for the financial year ending in the calendar year preceding the due date of the first payment.

1PPR = One Ten Thousandth (0.0001)

8.2 In the event that the Licensee will not be in operation for a full year following the issuance of the License, the regulatory fee applicable for such period shall be a minimum fee of [To Be Determined] United States Dollars (USD\$).

9. AUDITED ACCOUNTS

9.1 The accounts of the Licensee shall be audited at the expense of the Licensee by an independent auditor of the Licensee's choice, provided that such auditor shall be of good standing and reputation.

9.2 The Licensee shall send to the Office within three (3) months of the end of the Licensee's financial year a copy of the annual audited balance sheet and profit and loss account of the Licensee related to the supply of electricity pursuant to this Licence and shall send to the Office such operating and other statistics as the Office may reasonably require.

9.3 Licensee Information Reporting

The Licensee shall procure and furnish to the Office, in such manner and at such times in respect of the items set out at **SCHEDULE 1** or, as the Office may reasonably require, such other information and reports as the Office may consider necessary concerning the performance by the Licensee of its obligations under this License.

10. APPEALS

10A. Appeals Tribunal

10A.1 Subject to the provisions of any subsequent legislation, the Minister may as

required empanel the Tribunal to hear appeals by aggrieved parties and such Tribunal shall consist of three members appointed by the Minister as follows:

- (a) one member shall be a former Judge of the Supreme Court or the Court of Appeal and shall be the chairman of the Tribunal (the **“Chairman”**);
- (b) one member shall be appointed on the recommendation of the Licensee; and
- (c) one member shall be appointed on the recommendation of the Office.

10A.2 There shall be paid to the Chairman and other members of the Tribunal in respect of any appeal, such remuneration, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

10A.3 The decisions of the Tribunal shall be by a majority of votes of the members.

10A.4 The Tribunal shall regulate its own proceedings.

10A.5 Subject to any relevant legislation or instrument, the members of the Tribunal shall hold office for a period of two years unless sooner terminated by the Minister.

10B. Appeal of Office Decisions

10B.1 If the Licensee is aggrieved by a decision of, or failure to act, by the Office, under this Licence, the Licensee may appeal to the Tribunal:

- (a) in the case of a decision of the Office, within thirty (30) days after notification to the Licensee of that decision;
- (b) in the case of a failure of the Office to act, within twenty-one (21) days after the date on which the Office was required to act.

10B.2 On hearing an appeal under this Licence, the Tribunal shall have regard to the legality, rationality and procedural propriety of the Office in arriving at its decision

and may:

- (a) confirm, modify or reverse the decision of the Office or any part thereof;
or
- (b) by a direction in writing, refer the decision back to the Office for reconsideration by it, either generally or in relation to any matter specified in the direction,

and the Tribunal shall, at the same time, state the reasons for its decision.

10B.3 The Tribunal may, on application by the Licensee, order that the decision of the Office to which an appeal relates shall not have effect until the appeal is determined.

10B.4 The Tribunal may dismiss an appeal if it is of the opinion that the appeal is frivolous or vexatious or not made in good faith.

10B.5 Where the Tribunal dismisses an appeal, it shall inform the Licensee and the Office in writing stating the reasons for its decision.

10B.6 In making a decision, the Tribunal shall observe reasonable standards of procedural fairness and the rules of natural justice and act in a timely fashion.

11. DISCHARGE OF OBLIGATIONS AND POWER OF LICENSEE

11.1 Save as set out in this Licence, the Licensee shall discharge its obligations and perform the duties imposed or authorized under the ELA and any other applicable legislation, directives, orders, requests for information and memoranda issued by the Office in accordance with the OUR Act or any other applicable legislation or standards and shall enjoy the rights and exercise all powers conferred by such legislation on undertakers authorized to supply electricity in accordance with condition 3.1.

11.2 The Licensee shall not be obliged to undertake extension of any transmission or distribution lines to deliver the power generated, save as provided in the Power Purchase Agreement.

11.3 The Licensee may exercise such rights and shall observe such conditions relating to easements, way leaves, entry of private property and the construction of any lines above, or below ground, as may be prescribed by law. In addition the Licensee shall have the right to trim trees or shrubbery which may overhang any public way and may interfere with electric lines or cables constructed by the Licensee.

11.4 If in the construction, maintenance and repair of its electric lines, it shall be necessary for the Licensee to disturb public ways and places or the plant of any other utility, the Licensee shall promptly restore or pay the cost of restoring such public ways and places and utility plant to at least as good condition as they were before such disturbance.

12. **FORCE MAJEURE**

The Licensee shall be excused for any non-compliance with this Licence caused by "**Force Majeure**", which, for the purpose of this Licence, means any event or circumstance or combination of such events or circumstances that:

- (i) occurs inside Jamaica, except as provided in clause (h) below;
- (ii) is outside the reasonable control of the Licensee;
- (iii) cannot be prevented or overcome by the exercise of reasonable diligence; and
- (iv) materially and adversely affects the performance by the Licensee of its obligations under this Licence, to the extent that such event(s) or circumstance(s) meet the foregoing requirements (i) through (iii), including:
 - (a) acts of God, fire, explosion, chemical contamination, earthquakes, flood, lightning, drought, tsunami, flood, torrential rain, storm, cyclone, typhoon, or tornado, pestilence or other natural catastrophes, epidemics or plague, or any strikes, work to rule, go-slows or other labour disturbances that directly affect the assets of the Licensee,
 - (b) obligations under licences (other than this Licence), concessions or permits or other governmental requirements that are necessary for the Licensee to conduct its business and which will adversely impact performance under this

Licence,

- (c) any strikes, work to rule, go-slows or other labour disturbances that extend beyond the assets of the Licensee, are widespread or nation-wide or are of a political nature, including labour actions associated with or directed against a ruling political party, or those that are directed against the Licensee (or its contractors or suppliers) as part of a broader pattern of labour actions against companies or facilities with foreign ownership or management,
- (d) expropriation, requisition, confiscation, nationalization or compulsory acquisition by a governmental authority of the Licensee or any substantial portion of the assets.
- (e) acts of war (whether or not declared), invasion, blockade or embargo,
- (f) acts of threats of terrorism or threat from terrorists, widespread riot, widespread violent demonstrations, widespread armed insurrection, widespread rebellion or revolution,
- (g) the closing or drastic reduction in capacity of public harbours, ports, docks, canals, roads, airports or other infrastructure, the rationing thereof or any import or export restrictions, or
- (h) to the extent that they result in disruption of the Licensee's ability to receive shipments of fuel, major equipment or critical spare parts, any strikes, work to rule, go-slows or other labour disturbances that occur outside of Jamaica.

13. STEP-IN RIGHTS

13.1 After the Commercial Operations Date, if the Licensee shall have ceased to operate all, or any substantial part of the system or equipment necessary for the performance of functions under its Licence for a period of forty-eight (48) consecutive hours (the “**Initial Period**”) without the prior consent of the Minister (“**Step-in Event**”), the Minister or his designee may enter any site at which the Licensee operates and may assume operational control of that system or equipment, provided that:

13.1.1 The Minister shall give prompt notice to the Licensee determining that the

Initial Period has concluded, such notice to be given by means reasonably calculated to ensure prompt actual notice to the Licensee.

13.1.2 A Step-in Event shall not have occurred and the Minister or his designee shall not be entitled to enter any of the Licensee's sites for the purpose of assumption of operational control if the cessation of operation under subparagraph (1) resulted from:

- (i) circumstances beyond the reasonable control of the Licensee; such as an event of Force Majeure or a material breach by the power purchaser under the Power Purchase Agreement; or
- (ii) a forced outage as defined under the Power Purchase Agreement; or
- (iii) a scheduled or maintenance outage as defined under the Power Purchase Agreement; or
- (iv) an action or failure to act by the Minister or the Office in contravention of any right or entitlement of the Licensee under applicable legislation or regulation being in force, or the Licensee's Licence; or
- (v) to the extent that the Licensee is proceeding with diligence and good faith to overcome or remedy such event and such event is overcome and remedied within forty-eight (48) hours immediately after the Initial Period.

13.2 If the Minister or his designee assumes operational control of all or part of the system or equipment upon the event of a Step-in Event in terms of clause 13.1, the Minister or his designee shall operate the system or equipment in accordance with prudent utility practice and in any event in accordance with standards no lower than those which were binding on the Licensee prior to the occurrence of the Step-in Event.

13.3 Upon the occurrence of a Step-in Event the Minister or his designee shall be entitled to operate all or part of the system generating facility and/or equipment until such time as the Licensee has demonstrated to the reasonable satisfaction of the Minister that it can resume normal operation of the system or equipment in accordance with the terms and conditions of this Licence and the Act and that

Step-in Event will be overcome or remedied.

- 13.4 The Licensee must demonstrate to the Minister that it can and will secure or otherwise acquire and utilize:
- (a) requisite qualified and skilled personnel;
 - (b) sufficient financial resources; and
 - (c) any other resources identified to be needed to resume proper operation of the system and any generating facility in accordance with the terms and conditions of this Licence and to overcome or remedy the Step-in Event.
- 13.5 Where the Licensee is unable to demonstrate its ability to resume normal operation of the system or equipment to the reasonable satisfaction of the Minister within ninety (90) days after the Initial Period, the Minister shall have the right to acquire, and/or to have his designee acquire all of the rights, title and interest of the Licensee in the Licensed Business Facilities for an amount equal to fifty percent (50%) of the “purchase price” which shall be formulated in accordance with paragraph 13.6 below. If a Licensee event of default under the Power Purchase Agreement occurs and continues, the Minister shall have the right to suspend this Licence until such event of default has been cured in accordance with the terms of the Power Purchase Agreement, provided that if the Power Purchase Agreement terminates because of a Licensee event of default, the Minister shall have the right to acquire, and/or to have his designee acquire all of the rights, title and interest of the Licensee in the Licensed Business and Facilities for an amount equal to fifty percent (50%) of the “purchase price” which shall be formulated in accordance with paragraph 13.6 below. If the Minister elects to exercise his right to acquire all such rights, title and interest, payments in accordance with this paragraph 13.5 shall be made to the Licensee not later than one (1) year after the notice to exercise such right.
- 13.6 The “purchase price” referred to in paragraph 13.5 above shall be calculated at the present value of the Licensed Business present value being determined by the discounted cash flow methodology. The cash flows to be used in the calculation of the “purchase price” shall be the net cash and cash equivalent of the Licensed Business and Facilities as reflected in the audited financial statements from the last financial period prior to the invoking of the “step-in

rights” and the projected annual cash flow for the subsequent fifteen (15) years at the level of the last audited statement. The applicable interest rate to be used in the calculation of a “purchase price” shall be the United States Department of the Treasury one (1) year Treasury Bill rates for the relevant financial period.

- 13.7 The Minister shall only indemnify and hold the Licensee harmless from any loss or damage to the system and/or generation facility and for any injury to persons incurred as a direct result of the Minister’s or designee’s negligence or wilful misconduct in the operation of the system and/or generating facility during the take-over period and then only to the extent that such loss, damage or injury is not covered by insurance.
- 13.8 The Minister may designate any other qualified person as his designee for the purpose of exercising any of the powers conferred in this paragraph.
- 13.9 Where a licensee who is a purchaser of a generator’s electrical output under a power purchase agreement decides to exercise any step-in rights under terms of such agreement he shall notify the Minister prior to exercising such rights.
- 13.10 A licensee who exercises step-in rights in terms of paragraph 13.8 shall be deemed to be a designee of the Minister in terms of this Section and shall be bound by the provisions of this Section.

14. AMENDMENT TO LICENCE

This License may be modified at any time during the term of its continuance by agreement between the Licensee and the Minister and upon the advice of the Office.

15. REVOCATION

15.1 The Minister may, on the recommendation of the Office, at any time revoke this Licence by not less than thirty (30) days’ notice in writing (the “**Notice of Revocation**”) to the Licensee:

- (a) if it shall have been determined that the Licensee has failed to comply with any term of this Licence or to carry out in good faith and with reasonable diligence the activities referred to in this License, including compliance with directives, orders, memorandum, or determinations issued by the Office which determination shall specify in exact detail the respects in which

the Licensee so failed, provided that such failure shall have continued for a period of thirty (30) days and shall have impaired the Licensed Business;

- (b) if the Licensee has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
- (c) if any fee or financial obligation payable under this Licence or in relation to any related statute or any fine imposed by a court of law is unpaid thirty (30) days after it has become due and after the expiration of this thirty (30) day period it remains unpaid for a further period of thirty (30) days after the Office has given the Licensee notice that the payment is overdue; or
- (d) if any principal officer of the Licensee is convicted of a criminal offence by a court of law, which offence has impaired the Licensee's obligations under this Licence.

15.2 Prior to the recommendation for the revocation of this Licence pursuant to clause 15.1, the Licensee shall within a thirty (30) day notification period be given an opportunity to be heard, including making written submissions to the Office as to why this Licence should not be revoked.

16. RIGHTS OF ACTION RESERVED

Nothing specified or contained in this Licence shall be construed as depriving the Licensee of its ordinary rights to appeal to Her Majesty's Courts to redress any wrongs it may suffer or to enforce any rights to which it may be entitled under the Licence or otherwise.

17. ARBITRATION

In the event of any difference whatever arising under this Licence between the Government and the Licensee or between the Minister and the Licensee the matter in dispute shall be referred to arbitration in accordance with the applicable arbitration provisions of the Arbitration Act and the decision thereon shall be final and conclusive.

18. TRANSFERS OF OWNERSHIP

No Owner may assign or otherwise transfer, other than to another Owner or an Owner Affiliate, any of its partnership interest in the Licensee without the prior written consent of the Minister, which consent shall not be unreasonably withheld or delayed. If the Minister fails to respond to any request for consent under this paragraph 18 within ninety (90)

days after notice of any assignment or transfer is given, the Minister shall be deemed to have consented to such assignment or transfer.

19 . NOTICES

19.1 Any notice, document or other instrument required or permitted to be given or delivered to any person under any provisions of this Licence may be delivered or given by registered mail addressed to the person to whom the notice is to be given, or delivery is to be made, at its usual or last known address and if so given by mail shall be deemed to have been given or delivered five (5) days after the date on which it is deposited in the mail as registered mail.

If notice is given or any document delivered other than by registered mail, as provided in the preceding sentence, such notice shall not be deemed to have been given or document delivered until it is actually received by the person to whom the notice is given or delivery is made.

19.2 Any person may change its address for the purposes of this clause by giving notice of such change by hand delivery, or registered mail, which change, however, shall not become effective until it is actually received by the person to whom the notice is addressed.

Dated this day of201[].

_____ **MP**
Minister of Mining and Energy