

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT NON-BINDING TERM SHEET

This Non-Binding Term Sheet (“**Term Sheet**”) summarizes certain key terms for a fixed-price, date-certain, turn-key engineering, procurement and construction agreement (“**EPC Contract**”) that St. Lucia Electricity Services Limited (“**LUCELEC**” or “**Owner**”) is seeking in connection with its Request for Proposals for Engineering, Procurement, and Construction of a 7.5 MW/3.75MWh Energy Storage System (the “**ESS**” or the “**System**”), Project No. [_____], issued on [_____], 2022 (the “**RFP**”) to design, engineer, procure, install, construct, interconnect, test and commission the ESS that will be comprised of a containerized lithium-ion battery system, a containerized Power Conversion System (PCS), and step-up transformers for connection to AC grid at 11 kV. The Contractor shall also design, supply, install and commission a complete electrical power distribution system that will connect the ESS to the LUCELEC Grid. The ESS and distribution system will be located at La Tourney St. Lucia. Certain capitalized terms that are not defined in this Term Sheet will be defined in the RFP, and later in the definitive EPC Contract. References to Schedules, Appendices or Sections mean Schedules, Appendices or Sections of the RFP and will correspond to the appropriate sections of the EPC contract.

This Term Sheet is intended to address only certain material positions and issues desired by LUCELEC. For the avoidance of doubt, this Term Sheet does not contain an exhaustive list of LUCELEC’s requirements, and LUCELEC expressly and fully reserves the right to identify, raise or otherwise negotiate additional matters relating to a definitive EPC Contract.

This Term Sheet is not on offer by LUCELEC, and nothing herein shall be binding upon LUCELEC. Until the execution of a definitive EPC Contract, LUCELEC shall have the right at any time to discontinue discussions regarding any proposed transaction without incurring any liability to the Bidder. Reliance by the Bidder on the consummation of any transaction prior to the execution of an EPC Contract by LUCELEC shall be at the Bidder’s sole risk and shall not give rise to liability in contract, tort, promissory estoppel, or otherwise. This Term Sheet is qualified in its entirety by the provisions of the RFP and the forthcoming EPC contract.

System Owner:	St. Lucia Electricity Services Limited
Project Description:	A 7.5 MW/3.75MWh Energy Storage System (ESS), to be located on the Site, including the containerized lithium-ion battery system, a containerized Power Conversion System (PCS), and step-up transformers for connection to AC grid at 11 kV, a distribution switching station and all structures, facilities, appliances, lines, conductors, instruments, apparatus, components, roads and other equipment comprising and integrating the entire facility, as more particularly described in Appendix 5, Technical Schedules of the RFP.

<p>Milestones:</p>	<p>The completion date for Substantial Completion (including the final installation of the entire 7.5 MW/3.75MWh ESS) will be October 2023 (the “Guaranteed Completion Date”). The major interim Milestones of the project are listed below:</p> <ul style="list-style-type: none"> (a) Contract Award/ Signing; (b) Submission of 60% engineering package in full; (c) Completion of Engineering; (d) Issuance of PO for all Major Equipment (Batteries, Inverters, Transformers, Switchgear) (all POs will be subject to LUCELEC’s review and validation prior to issuance); (e) Contractor Mobilization; (f) Completion of Site Preparation; (g) Delivery of Major Equipment; (h) Substantial Completion.
<p>Notice to Proceed:</p>	<p>LUCELEC will issue a Notice to Proceed for the commencement of the project. If a Notice to Proceed has not been issued by a prior agreed date, then, at LUCELEC’s sole discretion:</p> <ul style="list-style-type: none"> (a) LUCELEC may issue a Change Order for a day-for-day extension of the Guaranteed Completion Date; (b) LUCELEC and the Contractor shall attempt to agree upon the delay needed until the Notice to Proceed can be issued and the cost to accelerate the schedule to mitigate the delay; or (c) LUCELEC and the Contractor shall attempt to agree on another strategy to avoid delay in construction, such as additional design and engineering Work to be able to meet the Equipment procurement schedule.
<p>Work:</p>	<p>The “Work” shall include, and Contractor shall be required to provide, all necessary work and services required in connection with the design, engineering, procurement, construction, installation, interconnection, start up, testing, commissioning and completion of the System, including such work as is further described in Section 8 of the RFP Instruction to Tenderers document and the Technical schedules in Appendix 5 of the RFP. Items need not be specifically listed in the EPC Contract or in the attached Schedules in order to be deemed within the Scope of Work, and any item indicated in the documents comprising the EPC Contract, reasonably inferable therefrom, incidental thereto or required in accordance with any Applicable Standards in existence as of the Effective Date, that is not specifically excluded from the Section 8 of the Instructions to Tenderers, and Appendix 5, the Technical Schedules of the RFP, is to be considered as part of the Scope of Work. The Scope of Work includes all that should be properly included and all that would be customarily included under Good Industry Practices within the general scope and</p>

	<p>magnitude of the Work in order to achieve the Guaranteed Performance Levels.</p>
Site:	<p>The Job Site is located just north of the Hewanorra International Airport in Vieux Fort, St. Lucia. Site Information is attached as Schedule F of the RFP.</p>
Site Access:	<p>LUCELEC shall provide Contractor reasonable access to and possession of the Job Site, which shall not be exclusive to Contractor. LUCELEC shall provide reasonable rights of ingress and egress to and from the Job Site for Contractor and its Subcontractors for performance of the Work. The Contractor shall coordinate with LUCELEC regarding: (i) initial entry onto the Job Site or any part thereof; and (ii) initial contact with the Persons who own property on or near, or have granted license or easement rights in and to, the Job Site.</p>
Permits and Regulatory Compliance:	<p>“Contractor Permits” means the Applicable Permits required under Applicable Law for Contractor to perform its obligations under the EPC Contract (other than LUCELEC Permits).</p> <p>The Contractor shall obtain and maintain all Contractor Permits and shall perform all obligations of Contractor under the Contractor Permits. The Contractor shall promptly provide LUCELEC with copies of all such Contractor Permits upon Contractor’s obtaining such Contractor Permits. LUCELEC shall provide Contractor with such information in LUCELEC’s possession or reasonably available to LUCELEC as Contractor reasonably may request to assist Contractor in applying for the Contractor Permits.</p> <p>LUCELEC shall obtain and maintain the Applicable Permits required under Applicable Law for LUCELEC to perform its obligations under the EPC Contract (the “LUCELEC Permits”). In order to assist LUCELEC to obtain the LUCELEC Permits, Contractor shall provide LUCELEC with such reasonable assistance as LUCELEC may request.</p>
System Design:	<p>The Contractor shall submit to LUCELEC for approval no less than four (4) weeks before certain scheduled ordering or manufacturing dates (to be further specified in the EPC Contract) hard copies and digital copies, of such drawings, samples, models or information as may be required under the EPC Contract or as LUCELEC may reasonably require. Further clarification in this regard is provided in Section 8.4 of the RFP Instruction to Tenderers document. The Contractor shall provide structural and design details in engineering drawings stamped by an engineer locally licensed in St. Lucia as part of the design and permitting process.</p> <p>LUCELEC shall signify approval or disapproval of submitted documents, Drawings, samples and models within two (2) weeks of receipt. Approved documents, Drawings, samples and models shall be stamped, dated and signed or identified as such.</p>

<p>Subcontractors:</p>	<p>The Contractor may engage Subcontractors to perform the Work and supply labour, Equipment, materials and supervision required to be supplied by Contractor.</p> <p>Subcontractors and suppliers with a contract value exceeding five percent (5%) of the Contract Price shall be considered to be “Major Subcontractors” and “Major Suppliers,” as applicable. A list of pre-approved Major Subcontractors and Major Suppliers will be attached as an Exhibit to the EPC Contract, which list will have been submitted by the Contractor in connection with its response to the RFP. If the Contractor wishes to propose a change to one or more of its Major Subcontractors or Major Suppliers, then Contractor shall provide LUCELEC with written notice of the same along with documentation (including but not limited to experience sheets, capabilities, resumes of key personnel, past projects, etc.) to demonstrate the capabilities of the proposed Major Subcontractor or Major Supplier. LUCELEC shall have the right to request, and the Contractor shall provide, additional information as may be required to evaluate the proposed Major Subcontractor or Major Supplier. LUCELEC, at its sole discretion, shall have the right to approve or reject any changes to Major Subcontractors and Major Suppliers and shall provide a written response to Contractor notifying it of such approval or rejection.</p>
<p>Local Labour:</p>	<p>Contractor shall use (and shall cause its Subcontractors to use) commercially reasonable efforts to employ Labour in accordance with the Labour Plan, and, to the maximum extent possible, will ensure that a majority of local labour man-hours are from the local labour force.</p>
<p>Operations and Maintenance Training:</p>	<p>During completion of the Work, and at least [30 days] prior to the achievement of Substantial Completion, the Contractor shall provide, at its own expense, a training programme for operation and maintenance of the System for LUCELEC’s personnel. Representatives of manufacturers of Equipment shall be utilized to provide specialized training for such Equipment where deemed necessary by the Parties.</p>
<p>Safety Standards:</p>	<p>The Contractor shall perform all Work in a safe manner and shall comply with, and cause its Subcontractors to comply with, LUCELEC’s Safety Handbook located in Schedule I of the RFP. The Contractor shall prepare a Safety Plan and submit to LUCELEC for approval, as per Section 8.10 of the RFP. LUCELEC shall have the right, at any time, to inspect the Job Site and to audit Contractor’s compliance with the Safety Plan.</p>

Impact on Community:	<p>The Contractor shall use reasonable efforts, and shall cause its Subcontractors to use their reasonable efforts, to assist LUCELEC in creating, assessing and carrying out programmes, which shall minimize the impacts upon the host community caused by the construction of the System. Such programmes, at a minimum, shall include:</p> <ul style="list-style-type: none"> (a) sequencing of the Work so as to minimize the impacts of noise, dust, and traffic at and around the Job Site; and (b) using active dust control measures on access roads and the Job Site.
Meetings:	<p>During the performance of the Work, weekly meetings or conference calls will be held for reviewing the progress of the Work, the latest progress reports and the Critical Path Schedule, as well as the status of any claims on the project and claims submitted under the EPC Contract.</p>
Monthly Progress Reports:	<p>The Contractor shall prepare and submit to LUCELEC monthly written progress reports on the progress and status of the Work compared to the Critical Path Schedule, the status of Equipment and other scheduled deliveries, the Subcontractors’ activities and engineering, permitting, procurement and construction progress (the “Monthly Progress Report”). Each Monthly Progress Report will provide cost information regarding back charges and a summary of any changes executed by the Parties.</p> <p>The Contractor shall promptly provide LUCELEC with written notice of a delay at any time that the Contractor becomes aware of a material delay or expected delay in any aspect of the Critical Path Schedule.</p>
Independent Inspection:	<p>LUCELEC may delegate inspection and testing of the Work to an independent inspector. The Contractor shall incorporate such rights into all Equipment purchase orders and its subcontracts. To facilitate such observations and inspections, the Contractor shall maintain at the Site a complete set of the Contract Documents, all Drawings and the current Critical Path Schedule. The Contractor shall comply with all inspection and testing requirements.</p>
Contract Price:	<p>LUCELEC shall pay to the Contractor the Contract Price of [] full payment for all Work to be performed by Contractor under the EPC Contract. The Contract Price will be fixed and non-escalating.</p>

Taxes:	<p>The Contract Price includes all taxes, duties, and other charges imposed on Contractor outside St. Lucia under Applicable Laws on the production, manufacture, sale and transport of the System, Construction Aids, Equipment, materials and supplies to be used in connection with the Work. Except for certain Import Taxes, the Contract Price includes all Taxes that may be levied according to Applicable Laws in connection with the System, the Work, or Contractor’s execution, delivery, or performance of the EPC Contract; provided, that for avoidance of doubt, LUCELEC shall be responsible for all LUCELEC Taxes.</p> <p>The Contractor shall comply with all Applicable Laws relating to local Taxes and shall comply with any requirements in relation to deductions of Taxes from local Subcontractors as may be imposed by Applicable Law.</p> <p>Failure by Contractor to satisfy the requirements of the Inland Revenue Department of St. Lucia will result in a withholding Tax being deducted from payments due under the EPC Contract.</p>
Import Taxes:	<p>Under the Electricity Supply Act, 1994 and the Electricity Supply (Amendment) Act, 2006, all Equipment and materials imported by LUCELEC for the purpose of generating, transmitting, distributing or supplying electricity shall be exempt from all customs and other import duties, landing tax and trade tax. This exemption applies to all Equipment and materials intended to form part of the permanent civil engineering and building works imported into St. Lucia consigned to LUCELEC, but does not apply to Construction Aids or to items consigned to Contractor.</p> <p>The Contractor shall not be responsible for, and the Contract Price shall exclude, the customs and other import duties, landing tax and trade tax that are subject to such exemption (“Import Taxes”), and to the extent any such Import Taxes are imposed on Contractor or its Subcontractors, LUCELEC shall reimburse Contractor within 30 days of Contractor’s invoice.</p> <p>Each Party shall cooperate as the other Party reasonably requests to provide the other Party with all certificates and other documentation necessary so that LUCELEC may avail itself of the exemption from Import Taxes.</p>

Payments:	The Contract Price shall be paid in installments in accordance with the Payment Terms set forth in Section 4.7 of the RFP Instruction to Tenderers. Except as otherwise agreed by LUCELEC and Contractor, no milestone payment shall be invoiced or made for partially completed Milestones, nor shall payment be made for Milestones achieved in advance of the milestone dates set forth in the Payment Terms. LUCELEC shall pay such installments, less Retainage, within 28 days from the date of issue of such certificate of payment. All payments shall be paid in United States dollars or Eastern Caribbean dollars in accordance with Section 6.2.1 of the Request for proposals, Instructions to Tenderers document, Pricing Submission Format.
Retainage/ Holdback:	LUCELEC may withhold from each payment owed pursuant to the EPC Contract an amount equal to ten percent (10%) of the amount payable with respect to such payment (totaling ten percent (10%) of the entire Contract Price) (“ Retainage ”). Retainage shall be released upon Substantial Completion (including, for the avoidance of doubt, accompanying handover of all documents and information required to achieve Substantial Completion), subject to LUCELEC’s right to withhold the Punch List Holdback as provided in the EPC Contract. Notwithstanding the foregoing, in lieu of cash Retainage, the Contractor may provide a letter of credit acceptable to LUCELEC (from an issuer acceptable to LUCELEC) equal to ten percent (10%) of the Contract Price which shall not expire prior to Final Completion of the System.
Performance Security:	The Contractor shall provide a bank guarantee (the “ Performance Security ”) securing payment and performance by Contractor in an amount equal to [_____ million dollars (\$_____)] from a bank or other surety acceptable to LUCELEC.

<p>Change Orders:</p>	<p>LUCELEC may at any time request an addition to or deletion from or other changes in the Work or Critical Path Schedule (a “Change”) by submitting a Request for Change Order for review and written response from Contractor, which shall address any required modifications to cost, scheduling or other provisions.</p> <p>If LUCELEC elects to proceed with the changed Work, the Parties shall set forth the agreed upon Change in the Work in a written change order signed by all Parties (a “Change Order”). Each Change Order shall constitute a final settlement of all items covered therein, including any compensation for impact on, or delay or acceleration in, performing the Work. If the Parties do not agree upon all terms of the Change Order, LUCELEC may nevertheless direct Contractor to proceed with the Work that is the subject of the Change Order on a time and material basis to include a reasonable markup for overhead and profit.</p> <p>Contractor may, request a Change in the Work and LUCELEC may accept or reject such request in its sole discretion (except with respect to Force Majeure, discovery of Pre-Existing Hazardous Materials or Cultural Resources at the Job Site, a LUCELEC Caused Delay or a Change in Law, in each case to the extent set forth in the EPC Contract). If Contractor believes that such requested Change will increase or decrease its cost of performing the Work, change the Critical Path Schedule or any Milestones, or require modification of its warranties, it shall include such information with its request for a Change in the Work. Work not described in the Scope of Work shall not require a Change Order if such Work is consistent with and reasonably inferable from the Scope of Work, so that a contractor of Contractor’s experience and expertise should have anticipated that the Work would have been required. The Parties will attempt to agree to an adjustment to the Contract Price regarding Change Order, or LUCELEC may direct Contractor to proceed on a time and materials basis.</p>
<p>Minor Changes:</p>	<p>LUCELEC may issue clarifications and order minor changes in the Work, which do not involve any adjustment to the Contract Price or the Guaranteed Completion Date and do not require Contractor to incur any additional significant cost or expense; provided that such clarifications and changes are consistent with the intent of the EPC Contract. Contractor shall receive no additional compensation therefore, nor shall there be any change to the Contract Documents.</p>

<p>Title:</p>	<p>Contractor will warrant that valid legal title to and the ownership of the Work (including all Equipment, Intellectual Property Rights, Contractor Deliverables, Required Manuals and any spare parts purchased by Contractor on behalf of LUCELEC at LUCELEC’s request in connection with the construction, operation and maintenance of the System) shall pass to LUCELEC at the earlier of (i) delivery to the Site and (ii) time of payment for such Work. Contractor further will warrant that, upon such transfer of title, (i) LUCELEC shall have good, valid, and marketable title to such portion of the Work, and (ii) such portion of the Work shall be free and clear of all Liens and claims of third parties and that no basis exists for the filing of any such Lien or claim. Contractor shall indemnify, defend and hold harmless LUCELEC from and against any loss, damage, claim, expense or cost (including court costs and reasonable attorneys’ fees) arising out of or relating to the breach of any of the foregoing warranties.</p>
<p>Risk of Loss:</p>	<p>Contractor shall have care, custody and control of the Work and shall bear the risk of loss thereof until the earlier of (i) achievement of Completion of the project, or (ii) the termination of the EPC Contract, when care, custody and control and risk of loss will pass to LUCELEC.</p>
<p>Insurance:</p>	<p>Contractor shall obtain and maintain, with insurers of recognized responsibility authorized to do business in St. Lucia assigned an A.M. Best rating of no less than A-, and shall exert reasonable efforts to cause its Subcontractors to obtain and maintain, the following insurance:</p> <ul style="list-style-type: none"> (a) Commercial General Liability with a limit of not less than [US\$10,000,000] per occurrence for a combined bodily injury and property damage and a [US\$15,000,000] annual aggregate; (b) Commercial Automobile Liability Insurance with the minimum statutory limit of not less than [US\$555,000] per accident for combined bodily injury and property damage; (c) Worker’s Compensation and/or Employers’ Liability at limits of [US\$5,000,000] per accident for injury to or death of employees; (d) Umbrella or excess liability insurance on an occurrence basis covering claims (on at least a following form basis) in excess of the underlying insurance described in the foregoing subsections (a), (b), and (c) above with a [US\$10,000,000] minimum per occurrence and annual aggregate limit, with aggregates applying separately on a “per project” basis; (e) Professional Liability Insurance with limits of not less than US\$10,000,000] and with a deductible or self-insured retention of no more than [US \$50,000]; and (f) Contractor’s Pollution Liability/Environmental Insurance, specific to the project, to be written on an “occurrence” based policy with a limit of liability of at least [US\$5,000,000] per occurrence/project

	<p>aggregate; with a deductible no greater than [US \$50,000] per occurrence (such deductible shall be borne by Contractor).</p>
<p>Builders’ All-Risk Insurance</p>	<p>Until Final Completion, Contractor shall obtain and maintain builders’ all-risk insurance, on an “all-risk” replacement cost basis in a completed value form, with such policy wording as is acceptable to LUCELEC and the Financing Parties. The builder’s risk insurance policy will provide coverage for the project, structures, inverters, transformers, machinery, equipment, facilities, fixtures, supplies, mobile equipment and other properties to be incorporated into the final Project and installed at the Site, with a deductible of no greater than [\$50,000] and with such customary endorsements as LUCELEC and the Financing Parties may reasonably require. Limits or sub-limits for earth movement, flood and named windstorm may be negotiated and agreed by Contractor, LUCELEC and the Financing Parties if such limits are not available at a reasonable cost. The builder’s risk insurance will also include cover for delay in startup at the benefit of LUCELEC and the Financing Parties (with a limit and waiting periods acceptable to LUCELEC and the Financing Parties), coverage for property prior to its being moved to or from the Site and while located away from the Site, including ocean marine and air transit coverage (if applicable) with limits sufficient to insure the full replacement value of the property and equipment that is either in transit or in temporary storage, expediting expenses, debris removal, and pollution clean-up. The builder’s risk insurance shall not contain any coinsurance provisions, and Contractor shall permit LUCELEC and the Financing Parties to participate in claims negotiations that involve losses or potential losses in excess of [US \$5,000,000].</p> <p>Such policy shall be endorsed to include LUCELEC and the Financing Parties as additional insureds or sole loss payee and additional insured, as their interests may appear.</p>
<p>Mechanical and Electrical Completion:</p>	<p>“Mechanical and Electrical Completion” shall occur, when all of the following conditions have been achieved:</p> <ul style="list-style-type: none"> (a) the Equipment has been installed and is structurally sound, including with the required connections and controls to produce electrical power; (b) all remaining electrical systems have been installed, checked and tested and are ready for operation; (c) all electrical continuity and ground fault tests and all mechanical tests and calibrations have been completed; and (d) all instrumentation is operational and has been calibrated in accordance with manufacturers’ standards and guidelines and, where possible, loop checked.

<p>Substantial Completion:</p>	<p>“Substantial Completion” shall occur, when all of the following conditions have been achieved:</p> <ul style="list-style-type: none">(a) Mechanical and Electrical Completion is achieved;(b) the equipment has been synchronized with LUCELEC’s distribution grid in accordance with the Scope of Work and Technical Specifications set forth in Appendix 5, the Technical Schedules of the RFP and the LUCELEC’s interconnection requirements;(c) the Acceptance Tests have been conducted and Guaranteed Performance Levels (as described below) have been achieved;(d) All other tests set forth in the Scope of Work and Technical Specifications or the EPC Contract shall have been conducted and passed;(e) All Work has been completed in accordance with the requirements of the Contract Documents and the ESS has been constructed in accordance with the Contract Documents and the Drawings;(f) The Final Plans accurately reflect the ESS as constructed;(g) The ESS is capable of being operated in a safe, normal, reliable and continuous manner in accordance with Applicable Standards and the Contract Documents at all operating conditions and modes specified in the Scope of Work and Technical Specifications, without (i) risk of damage to any portion or component thereof or any other property, (ii) risk of injury to any person or (iii) voiding any Equipment manufacturer’s warranty;(h) The Contractor shall have delivered to LUCELEC all Required Manuals and other operation and maintenance manuals and Final Plans for the project in accordance with the Scope of Work;(i) LUCELEC has received and accepted the final “as-built” drawings and all other final documents, Drawings, Subcontractor information, Subcontractor warranties, and other documentation as required by the EPC Contract;(j) Contractor has provided LUCELEC with copies of all Contractor Permits in connection with the project, along with proof of satisfactory inspections required thereunder;(k) Contractor has completed the training of the O&M Personnel;(l) Contractor shall have paid all Schedule Liquidated Damages and any other amounts due under the Contract Documents, if any;
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	<ul style="list-style-type: none"> (m) Any and all Liens in respect of the Contract Documents, the Equipment, the Job Site or any fixtures, personal property or Equipment included in the Work for the ESS created by, through or under, or as a result of any act or omission of, Contractor or any Subcontractor or other Person providing labour or materials in connection with the Work for the ESS shall have been released or bonded in form reasonably satisfactory to LUCELEC and lien waivers not previously delivered have been received and delivered to LUCELEC; (n) All Contractor’s Construction Aids and any wastes have been removed from the portion of the Site on the ESS is located and have been properly disposed of; and (o) All items on the Punch List for the ESS have been completed in a manner satisfactory to LUCELEC or LUCELEC has withheld any remaining Punch List Holdback to complete any items on the Punch List not completed by Contractor in accordance with the EPC Contract.
<p>Substantial Completion Date:</p>	<p>When the Contractor believes it has satisfied all requirements for Substantial Completion, the Contractor shall notify and submit to LUCELEC a copy of the complete set of commissioning reports. As soon thereafter as reasonably practicable, a team consisting of representatives of LUCELEC and any other Persons as LUCELEC may request shall make a final inspection of the ESS.</p> <p>Within 10 Business Days after receipt of such notice and the commissioning reports, LUCELEC, shall notify the Contractor in writing whether the Contractor has fulfilled the requirements of the EPC Contract to the satisfaction of LUCELEC. If such requirements have been fulfilled, LUCELEC will communicate this to the Contractor in writing. If the requirements for Substantial Completion have not been fulfilled, then LUCELEC shall deliver a written notice to such effect to the Contractor describing in reasonable detail the deficiencies noted and corrective action recommended, including projected target dates for the completion of such incomplete or remedial Work. The Contractor shall promptly act to correct any such deficiencies. Such procedure shall be repeated until the earlier of:</p> <p>(i) the date on which Contractor has fulfilled the requirements for Substantial Completion of the ESS and LUCELEC delivers written confirmation thereof to Contractor (the “Substantial Completion Date”); or (ii) termination of the EPC Contract. Throughout this process, if the applicable Guaranteed Completion Date has passed, Contractor shall pay all Schedule Liquidated Damages when due.</p>

Guaranteed Completion Date:	The Contractor guarantees that Substantial Completion of the ESS will occur no later than the Guaranteed Completion Date (subject to delay or extension expressly permitted under the EPC Contract).
Schedule Liquidated Damages:	<p>Subject to LUCELEC’s other rights as set forth in the EPC Contract, Contractor shall pay to LUCELEC, as liquidated damages and not as a penalty, [\$_____] for each day after the Guaranteed Completion Date (up to and including, but not after, the Outside Completion Date) that Substantial Completion for the ESS is not achieved and is not otherwise excused (collectively, the “Schedule Liquidated Damages”).</p> <p>If Contractor has not achieved Substantial Completion by the Outside Completion Date, then LUCELEC may terminate the EPC Contract for a Contractor Event of Default.</p> <p>Contractor shall pay any owed Schedule Liquidated Damages within seven (7) days after receipt of demand therefor.</p> <p>LUCELEC shall have the right to offset Schedule Liquidated Damages against amounts owing to Contractor under the EPC Contract and to exercise its rights against the Performance Security, in such order as LUCELEC may elect in its sole discretion.</p> <p>“Outside Completion Date” means ninety (90) days following the Guaranteed Completion Date.</p>
Acceptance Tests:	The Contractor shall prepare an inspection and test plan, a commissioning plan, and a site acceptance testing plan for the project as per Section 8.11 of the Instruction to Tenders (the “ Acceptance Tests ”), which Acceptance Tests will be submitted to LUCELEC for its review and approval.
Guaranteed Performance Levels:	<p>The Contractor will guarantee that, no later than the Guaranteed Completion Date and as a condition to Substantial Completion, the ESS will satisfy the following guaranteed performance levels to be measured at the Point of Interconnection (to be agreed upon by the Parties and detailed in the Drawings and/or other Contract Documents as part of the Contractor’s performance of the Work) (the “Guaranteed Performance Levels”):</p> <p>(a) Discharging and Charging:</p> <ul style="list-style-type: none"> i. Maximum continuous discharge power (Dmax): [7.5] MW ii. Minimum continuous discharge power (Dmin): [0] MW iii. Minimum discharge duration at constant Dmax: [30] minutes [operating at a power factor of 0.9 (8.4 MVA) after losses and supply of auxiliaries] iv. Maximum continuous charge power (Cmax): [7.5] MW

	<ul style="list-style-type: none"> v. Minimum continuous charge power (Cmin): [0] MW vi. Maximum charge duration at constant Cmax: [TBD] minutes vii. AC Round-trip efficiency (measured at AC inverter terminals): [>85%] (b) Ramp Rates: <ul style="list-style-type: none"> i. Idle to Dmax: [300] milliseconds ii. Idle to Cmax: [300] milliseconds iii. Dmax to Cmax: [300] milliseconds iv. Cmax to Dmax: [300] milliseconds v. Dmin to Cmin: [0] milliseconds vi. Cmin to Dmin: [0] milliseconds vii. Start-up time (from notification to ready to respond): [TBD] seconds (c) Other guarantees as may be reasonably requested by LUCELEC and incorporated into the Acceptance Tests pursuant to the applicable provisions of the EPC Contract (including start and run time limitations, ancillary services and voltage services).]
<p>Contractor Warranties:</p>	<p>Contractor warrants to LUCELEC that all Equipment shall:</p> <ul style="list-style-type: none"> (a) Be new, unused and of good quality and good condition; (b) Be free from Defects in materials, design and workmanship; (c) Comply with all applicable requirements of all the Construction Documents and, Applicable Laws and all Applicable Permits; (d) Be fit for LUCELEC’s use in and as a battery energy storage system facility; and (e) Be free and clear of all Liens. <p>Contractor warrants to LUCELEC that the Work will be performed in a good and workmanlike manner, and that the System will:</p> <ul style="list-style-type: none"> (a) Be free from any Defects in workmanship or design, and will conform to and be designed, engineered and constructed in accordance with the Applicable Standards, Drawings, Contract Documents and other requirements of the EPC Contract; (b) Conform with, and be designed and engineered according to professional standards and skill, expertise and diligence of design professionals regularly involved in utility-scale battery energy storage system projects similar to the project; and (c) Contain the Equipment, supplies and materials described in the Scope of Work and Technical Specifications.

	<p>Contractor shall promptly remedy any Defects or breaches of warranty which appear during the following periods (the “Defects Liability Period”):</p> <ul style="list-style-type: none"> (a) with respect to Defects arising out of the balance of plant components of the Work and/or the Contractor’s engineering or workmanship, the expiration of twelve (12) months after LUCELEC’s approval of the Taking Over Certificate for such balance of plant components and workmanship; and (b) with respect to Defects arising out of the Major Equipment, two (2) years after LUCELEC’s approval of the Taking Over Certificate for such Major Equipment. The parties may agree upon an extension to the Defects Liability Period, which will be documented in a written amendment or other written agreement (pursuant to the applicable terms of the EPC Contract).
<p>Equipment and Subcontractor Warranties:</p>	<p>Contractor shall obtain from the Subcontractors such guarantees and warranties with respect to Work performed and Equipment supplied, used and installed hereunder as are reasonably obtainable, which guarantees and warranties shall equal or exceed those set forth in the EPC Contract, and shall be made available and assignable to LUCELEC, LUCELEC’s permitted assigns and the Financing Parties. Contractor shall obtain the warranties for lithium ion batteries, transformers, distribution switching station (and associated equipment), inverters and input into the datasheet located in Schedule L of the RFP. LUCELEC and the Financing Parties shall be an express third party beneficiary of all guarantees and warranties obtained from Subcontractors. All such warranties obtained shall be in addition to, and shall not alter the warranties of, Contractor.</p> <p>Upon LUCELEC’s request, Contractor shall use all reasonable efforts to assist LUCELEC in enforcing such warranties. To the extent available, LUCELEC shall have the right to require Contractor to secure additional warranty or extended guarantee protections pursuant to a Change Order.</p> <p>In the case of warranties from the manufacturers of the batteries, transformers, switching station (and associated equipment) and the inverters, the Vendors pass through any warranties, and will acknowledge to LUCELEC in writing prior to the Final Completion Date that the equipment has been properly installed in a way that will not void any warranties.</p>

<p>Intellectual Property Warranty:</p>	<p>Contract shall warrant the Work, Equipment, the Contractor Deliverables or other items and services provided by Contractor or any Subcontractor under the EPC Contract against infringement or misappropriation of any Intellectual Property Right.</p>
<p>Exclusive Warranties:</p>	<p>The warranties of Contractor set forth in the EPC Contract are exclusive and in lieu of all other warranties, whether statutory, express or implied (including all warranties of merchantability, fitness for use, and fitness for a particular purpose and all warranties arising from course of dealing and usage of trade). The foregoing sentence is not intended to disclaim any other obligations of Contractor set forth in the EPC Contract.</p>
<p>Contractor Indemnification:</p>	<p>Contractor agrees to reimburse, indemnify, defend and hold LUCELEC, LUCELEC’s Affiliates, and the Financing Parties, and each of their respective directors, officers, employees, representatives, agents, advisors, consultants, counsel and assigns (the “LUCELEC Indemnified Parties”) harmless from and against, any and all losses, claims, obligations, demands, assessments, penalties, liabilities, costs, damages and expenses (including reasonable attorneys’ fees and expenses) (collectively, “Damages”) asserted against or incurred by the LUCELEC Indemnified Parties in connection with, or arising or resulting from, the breach of its obligations under the EPC Contract and any negligent, reckless, or otherwise tortious act or omission (including strict liability) during the performance of the Work, or any curative action under any warranty following performance of the Work, of Contractor or any Affiliate thereof, any Subcontractor, or anyone directly or indirectly employed by any of them, or anyone for whose acts such Person may be liable, including Damages with respect to:</p> <ul style="list-style-type: none"> (a) Bodily injury, death or damage to property; (b) Claims of third parties; (c) Claims by any Government Authority for any Contractor Taxes; (d) Pollution or contamination which originates from sources in Contractor’s or its Subcontractors’ possession, use or control or caused by the Release by Contractor or its Subcontractors (excluding Pre-Existing Hazardous Material); (e) To the extent LUCELEC has paid all undisputed amounts due pursuant to the Contract Documents, any Lien on the Equipment, the Job Site or any fixtures or personal property included in the Work (whether or not any such Lien is valid or enforceable) created by, through or under, or as a result of any act or omission (or alleged act or omission) of, Contractor or any Subcontractor or other Person providing labour or materials in connection with the Work; (f) Unauthorized disclosure, improper use, infringement or misappropriation of any Intellectual Property Right;

	<ul style="list-style-type: none"> (g) Vitiating of any insurance policy as a result of Contractor’s failure to comply with such policy or any other act by Contractor or any Subcontractor; (h) Failure of the System to comply with, or be capable of operating in compliance with, Applicable Laws or Applicable Permits; (i) Failure of Contractor to comply with Applicable Laws or the (j) conditions or provisions of Applicable Permits; and (k) Claims with respect to employer’s liability or worker’s compensation filed by any employee of Contractor or any of its Subcontractors.
<p>LUCELEC Indemnification:</p>	<p>LUCELEC agrees to reimburse, indemnify, defend and hold Contractor and its Affiliates and each of their respective directors, officers, employees, representatives, agents, advisors, consultants and counsel (the “Contractor Indemnified Parties”) harmless from and against, any and all Damages asserted against or incurred by the Contractor Indemnified Parties in connection with, or arising or resulting from:</p> <ul style="list-style-type: none"> (a) Bodily injury, death or damage to property caused by any negligent act or omission or willful misconduct of LUCELEC or its agents or employees or others under LUCELEC’s direct control; (b) Claims by any Government Authority for any LUCELEC Taxes; (c) Pre-Existing Hazardous Material on the Site; and (d) Claims with respect to employer’s liability or worker’s compensation filed by any employee of LUCELEC.
<p>Representations and Warranties:</p>	<p>The Parties will make customary representations and warranties in the EPC Contract regarding organization, authority, binding nature, no violations, and no proceedings. In addition, the Contractor shall make customary representations and warranties regarding its experience and qualifications, review of documents and information regarding the Work and the Job Site, intellectual property, solvency, and improper payments.</p>
<p>Termination for Convenience:</p>	<p>LUCELEC may terminate the EPC Contract in whole or in part at any time by 10 Business Days’ notice to Contractor. Contractor shall, unless the notice directs otherwise: (a) immediately discontinue the Work on the date and to the extent specified in such notice; (b) place no further orders or subcontracts for Equipment or services except as may be necessary for completion of the Work not discontinued; (c) use reasonable efforts to procure cancellation upon terms satisfactory to LUCELEC of all orders, subcontracts and rental agreements relating to the discontinued Work; and (d) thereafter execute only that portion of the discontinued Work needed to preserve and protect Work already in progress and to protect such Equipment and materials as may be on the Site or in transit thereto.</p>

	<p>Upon LUCELEC’s termination for convenience, Contractor shall accept as its sole and exclusive remedy for the payment for the Work performed an amount equal to (a) the sum of (i) the portion of the Contract Price corresponding to any Milestones that have been completed, plus (ii) the percentage of Work completed on any unfinished Milestones multiplied by the portion of the Contract Price applicable to such Milestones, plus (iii) Contractor’s and its Subcontractors actual and demonstrable demobilization costs for which Contractor is legally liable to pay, less (b) the sum of (i) the aggregate of amounts paid to Contractor for the Work prior to such termination, plus (ii) any amounts for which Contractor is liable to LUCELEC pursuant to the EPC Contract that have not already been paid by Contractor to LUCELEC. As a condition to such payment, Contractor shall provide (and shall cause its Subcontractors to provide) an unconditional final lien waiver.</p>
<p>LUCELEC Right to Suspend:</p>	<p>LUCELEC may suspend all or any portion of the Work for any period of time (not to exceed 120 days). In such event, Contractor shall be entitled to</p> <ul style="list-style-type: none"> (a) a Change Order adjusting the Critical Path Schedule by a period reasonably required by the suspension, not to exceed the period of suspension, provided Contractor uses reasonable efforts to mitigate any such delays by re-sequencing and/or re-scheduling the Work, and (b) an increase in the Contract Price in an amount equal to those reasonable additional Direct Costs attributable to the suspension of Work plus a markup of [•] percent ([•]%) for overhead and profit during the period of suspension. <p>Contractor shall not be entitled to an adjustment in the Critical Path Schedule or any increase in the Contract Price if LUCELEC has suspended the Work due to Contractor’s failure to meet any of its material obligations under the EPC Contract.</p>
<p>Events of Default:</p>	<p>“Contractor Events of Default” shall mean:</p> <ul style="list-style-type: none"> (a) The Contractor fails to achieve Substantial Completion by the Outside Completion Date; (b) Contractor fails to pay Schedule Liquidated Damages as and when required herein; (c) Contractor fails to make payment of any other amount required to be made to LUCELEC under the Contract Documents when due, and such breach is not cured by Contractor within 15 days after notice from LUCELEC (except to the extent Contractor disputes such other payment or payments in good faith in accordance with the terms of the EPC Contract); (d) The Performance Security is breached, modified, revoked or repudiated by the issuer thereof or otherwise becomes invalid;

	<p>(e) Any of the following occurs and remains unremedied for 30 days following the earlier of (x) Contractor’s actual knowledge thereof or (y) written notice by LUCELEC, or for such longer period, not to exceed an additional 30 days, during which time Contractor diligently pursues the cure of such breach:</p> <ul style="list-style-type: none">i. Contractor fails to supply sufficient skilled workers or suitable materials, Construction Aids, or equipment to timely perform the Work;ii. Contractor fails to make prompt payments when due to Subcontractors for labour, materials or equipment;iii. Contractor suspends performance of a material portion of the Work (other than for LUCELEC Default, Force Majeure or pursuant to a Change Order);iv. Contractor materially breaches its safety obligations under the EPC Contract;v. Contractor fails to comply with any provision of any Applicable Permits or Applicable Law; orvi. Contractor fails to correct any Defective Work during performance of the Work or within the applicable Warranty Period; <p>(f) Any material misrepresentation by Contractor, and Contractor fails to remedy such misrepresentation within 30 days after the earlier of Contractor first becoming aware thereof or receiving notice from LUCELEC, but only to the extent it would be feasible and commercially reasonable for Contractor to remedy such material representation within such 30 day period;</p> <p>(g) Any material breach by Contractor of any obligation, covenant or agreement of Contractor hereunder not otherwise specified as a Contractor Event of Default, and such breach is not cured within 30 days after notice thereof by LUCELEC or, if such breach is capable of cure but not capable of being cured within such 30 day period, such additional period (not to exceed 60 days in the aggregate from LUCELEC’s notice of default) as required to effect such cure, provided that Contractor diligently proceeds to effect such cure;</p> <p>(h) A Bankruptcy Event with respect to Contractor occurs;</p> <p>(i) The dissolution of Contractor;</p> <p>(j) The transfer by Contractor of:</p> <ul style="list-style-type: none">i. any rights and/or obligations of Contractor hereunder, except for an assignment or subcontracting permitted hereunder; or
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	<ul style="list-style-type: none"> ii. all or a substantial portion of the assets or obligations of Contractor, except where the transferee expressly assumes the transferred obligations and such transfer does not materially adversely affect the ability of Contractor or the transferee to perform its obligations under the Contract Documents; (k) Contractor fails to maintain required insurance coverages; or (l) Abandonment of the Work by Contractor.
<p>LUCELEC Remedies for Contractor Events of Default:</p>	<p>Upon the occurrence of a Contractor Event of Default, LUCELEC may, at its option, terminate the EPC Contract, without prejudice to any other rights and remedies available to LUCELEC under the EPC Contract, effective upon notice to Contractor.</p> <p>Upon such termination, Contractor shall be responsible for and shall reimburse LUCELEC for the following amounts, less the balance of the Contract Price unpaid at the time of the termination:</p> <ul style="list-style-type: none"> (a) All reasonable costs and expenses incurred by LUCELEC to complete (or cure deficiencies in) the Work, including overhead and legal, engineering and other professional expenses; (b) All reasonable costs and expenses incurred in connection with the termination of the Contract Documents; and (c) Schedule Liquidated Damages, to the extent owed but not previously paid as provided herein. <p>If and only to the extent the balance due on the Contract Price that is unpaid at the time of termination exceeds the sum total of all damages owed by Contractor upon such termination, then LUCELEC shall pay the difference to Contractor. Contractor shall not otherwise be entitled to receive any other or further payments under the EPC Contract.</p> <p>In addition, upon a termination for a Contractor Event of Default:</p> <ul style="list-style-type: none"> (a) Contractor shall clean the Job Site and remove all Construction Aids and other items from the Job Site; (b) LUCELEC shall take possession of the Job Site and of the Equipment (whether at the Job Site, in transit or otherwise); (c) Contractor shall promptly assign to LUCELEC or its designee any contract rights (including warranties, licences, patents and copyrights) that it has to any and all Equipment and the Work, including contracts with Subcontractors, and Contractor shall execute such documents as may be reasonably requested by LUCELEC to evidence such assignment, subject to LUCELEC’s assumption of same and, if required, LUCELEC’s adequate assurance to such Subcontractors regarding LUCELEC’s ability to pay;

- (d) Contractor shall promptly furnish LUCELEC with copies of all Drawings and, to the extent available, Final Plans, and copies of all computer files containing Drawings or Final Plans;
- (e) Contractor hereby grants to LUCELEC and its designee with the right to use, free of charge, all patented, copyrighted and other proprietary information relating to the Work that LUCELEC deems necessary to complete the Work, and Contractor shall execute such documents as may be reasonably requested by LUCELEC to evidence such right;
- (f) Contractor shall assist LUCELEC in preparing an inventory of all Equipment in use or in storage at the Job Site;
- (g) For those items of Work that are completed as of the date of termination, provide LUCELEC with a 5 year warranty for such Work with the same protections and remedies as set forth in Contractor's warranty under the EPC Contract;
- (h) Contractor shall perform all Remediation Work required under Applicable Laws or Applicable Permits, or by LUCELEC or Government Authorities; and
- (i) Contractor shall take such other action as required hereunder upon termination of the EPC Contract or as may be reasonably requested by LUCELEC.

Upon the occurrence and during the continuance of a Contractor Event of Default but prior to termination of the EPC Contract by LUCELEC, LUCELEC may, without prejudice to any of its other rights and remedies, proceed against the Performance Security, Retainage or other security given by or for the benefit of Contractor for its performance under the EPC Contract, and may exercise any other remedies available to it hereunder or at law or in equity.

If LUCELEC gives Contractor a notice of termination of the EPC Contract for a Contractor Event of Default, and it is later determined that there was no such Contractor Event of Default, then, unless LUCELEC agrees in its sole discretion to revoke such notice of termination, such notice of termination shall be deemed to have been a notice of termination for convenience, as of the date such notice was originally given.

<p>LUCELEC Event of Default:</p>	<p>A “LUCELEC Event of Default” shall mean:</p> <ul style="list-style-type: none"> (a) LUCELEC fails to make payment of any amount required to be made to Contractor under the Contract Documents when due, and such breach is not cured by LUCELEC within 15 days after LUCELEC’s receipt of notice from Contractor (except to the extent LUCELEC disputes such other payment or payments in good faith in accordance with the terms of the EPC Contract); (b) any material misrepresentation by LUCELEC, and LUCELEC fails to remedy such misrepresentation within 30 days after the earlier first becoming aware thereof or notice from Contractor, but only to the extent it would be feasible and commercially reasonable for LUCELEC to remedy such misrepresentation within such 30 day period; (c) A Bankruptcy Event occurs with respect to LUCELEC; (d) Any material breach by LUCELEC of any obligation, covenant or agreement of LUCELEC hereunder not otherwise specified as a LUCELEC Event of Default, and such breach is not cured by LUCELEC within 30 days after notice thereof by Contractor or, if such breach is capable of cure but not capable of being cured within such 30 day period, such additional period (not to exceed 60 days in the aggregate from Contractor’s notice of default) as required to effect such cure, provided that LUCELEC diligently proceeds to effect such cure; (e) The dissolution of LUCELEC; or (f) The transfer by LUCELEC of its rights or obligations hereunder, except for an assignment permitted hereunder.
<p>Contractor Remedies for LUCELEC Event of Default:</p>	<p>Upon the occurrence and during the continuance of a LUCELEC Event of Default, the Contractor may terminate the EPC Contract 10 days after giving notice to LUCELEC so long as the amount owed by LUCELEC (other than any amount disputed in accordance with the terms of the EPC Contract) is not paid within such period given that agreed upon payment terms have not been adhered to. Upon such termination by Contractor, LUCELEC shall pay to Contractor as its sole and exclusive remedy such amounts as the Contractor would have been entitled to receive in the event of a termination for convenience by LUCELEC.</p>
<p>Contractor Right to Suspend:</p>	<p>Contractor may suspend the Work by 14 days notice to LUCELEC if LUCELEC fails to issue a certificate of payment upon proper application by Contractor, or fails to make any undisputed payment due to Contractor under the EPC Contract.</p>

<p>Maximum Liability:</p>	<p>Except for indemnity obligations, and any claims arising out of Contractor’s wilful misconduct or fraud, the aggregate liability of Contractor pursuant to the EPC Contract shall not exceed an amount equal to one-hundred percent (100%) of the Contract Price plus any proceeds from insurance required to be obtained or maintained by Contractor pursuant to the EPC Contract.</p>
<p>Force Majeure:</p>	<p>“Force Majeure Event” means the occurrence of any event not reasonably anticipated as of the Effective Date that prevents the affected Party from performing its obligations under the EPC Contract, in full or part, that is not within the reasonable control of the affected Party affected, that could not have been avoided by the exercise of due diligence (including the expenditure of reasonable sums), and that is not the result of the failure to act or the negligence or willful misconduct of such Party; <u>provided</u>, that none of the following constitute Force Majeure: (a) strikes or labour disturbances by Contractor or Subcontractor personnel occurring at the Job Site or Contractor’s or Subcontractor’s facilities except to the extent such strikes or labour disturbances at the Job Site or Contractor’s or any Subcontractor’s facilities are directly related to strikes or labour disturbances that are (A) on a regional or national level and are (B) simultaneously disrupting other business operations in the applicable regional or national area, but only to the extent there are other like business operations in the applicable regional or national area; (b) shortages (real or perceived) of labour unless such shortage is caused by a direct and local Force Majeure Event that prevents labour from accessing the Work; (c) delay or failure by Contractor to obtain the requirements for or properly apply for any Applicable Permit which is customarily obtained by contractors other than the delay or failure to obtain an Applicable Permit occasioned by (x) the failure of a Government Authority to comply with rules, procedures or Applicable Law applicable to such Applicable Permit or Government Authority or (y) a Force Majeure Event; (d) economic hardship including shortages of labour or materials, lack of money or credit, and changes in exchanges rates; (e) transportation or shipping accidents that are not of themselves caused by a Force Majeure Event; or (f) unavailability of preferred shipping methods, unless caused by an independent Force Majeure Event.</p> <p>No failure or omission to carry out or observe any of the terms, provisions, or conditions of the EPC Contract shall give rise to any claim by either Party against the other, or be deemed to be a breach or default of the EPC Contract, to the extent such failure or omission shall be caused by, or arise out of, a Force Majeure Event.</p> <p>If any Party’s ability to perform its obligations under the EPC Contract is affected by a Force Majeure Event, the affected Party shall, as promptly as reasonably possible, and in no event less the 72 hours, after learning of such event and ascertaining that it will delay its performance hereunder, provide verbal or email notification describing the particulars of the Force Majeure</p>

	<p>Event to the other Party and shall, as promptly as reasonably possible thereafter (but in any event within 5 Business Days), give a written Delay Notice to the other Party.</p> <p>The suspension of performance due to a Force Majeure Event shall be of no greater scope and of no longer duration than is reasonable in light of the nature and magnitude of such Force Majeure Event. Suspension of performance due to a Force Majeure Event, and any related remedy therefor, shall be permitted (a) only if the affected Party could not have avoided the impact of the Force Majeure Event by the exercise of due diligence, and (b) only if by the exercise of due diligence, the affected Party is unable to overcome or obtain or cause to be obtained a substitute for suspension of performance. The affected Party shall use commercially reasonable efforts to overcome or mitigate the effects of the Force Majeure Event.</p> <p>If a Force Majeure Event continues for a period of more than 180 consecutive days or one year in the aggregate, either Party shall have the right to terminate the EPC Contract by then providing 10 Business Days written notice to the other Party.</p>
<p>Dispute Resolution:</p>	<p>If any Dispute arises, the parties to the Dispute shall attempt to settle such Dispute by mutual discussions.</p> <p>If the parties to the Dispute cannot amicably resolve the Dispute through discussions within 10 Business Days of the date of delivery of a Notice of Dispute, then the Dispute shall be referred to representatives of each of the parties to the Dispute, each with authority to settle the Dispute. Such representatives shall thereafter attempt to amicably resolve the Dispute in writing.</p> <p>Any Dispute that is not resolved within 30 days of the Notice of Dispute shall be submitted to final and binding arbitration in accordance with 2010 UNCITRAL Arbitration Rules. The appointing authority shall be the President of the International Court of Justice or, if the President of the International Court of Justice is unwilling or unable to perform as the appointing authority, the Vice-President of the International Court of Justice or the next most senior Judge of the International Court of Justice that is so willing or able. There shall be three arbitrators. The seat of arbitration shall be Castries, St. Lucia.</p> <p>Each Party shall continue to perform its obligations under the EPC Contract in good faith during the resolution of such Dispute.</p>
<p>Governing Law</p>	<p>Laws of St. Lucia.</p>
<p>Assignment:</p>	<p>Contractor may not assign the EPC Contract or any portion hereof, or any of the rights or obligations under the EPC Contract, without the prior written</p>

consent of LUCELEC, which consent may be withheld at LUCELEC's sole discretion.

LUCELEC may assign the EPC Contract so long as the assignee is capable of fulfilling and becomes responsible for all of LUCELEC's duties and obligations under the EPC Contract (a) to any Affiliate, without the consent of Contractor; (b) to a purchaser in connection with a transfer of the project, without the consent of Contractor; and (c) to any other Person, with the consent of Contractor, which consent shall not be unreasonably withheld or delayed, and Contractor shall release LUCELEC from all obligations under the EPC Contract upon any such assignment; provided, however, that notwithstanding any assignment pursuant to clause (a) above, LUCELEC shall remain responsible for all financial obligations under the EPC Contract.

In addition, Contractor consents to the granting of a security interest in and an assignment of the EPC Contract to the Financing Parties and their successors, assigns and designees, by LUCELEC or any permitted assignee. Contractor agrees to furnish to the Financing Parties, and to cause its Subcontractors to furnish to the Financing Parties, such written information, certificates, copies of invoices and receipts, lien waivers (upon payment), estoppel certificates, affidavits, consents to assignment of the documents forming the EPC Contract and other like documents as the Financing Parties may reasonably request.