

# Sikkim Urja Limited

[Formerly: Teesta Urja Limited | CIN: U31200DL2005SGC133875]

1200 MW Teesta III HEP | Government of Sikkim Enterprise

Registered Office: B2/1A Safdarjung Enclave, Africa Avenue, New Delhi 110029

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## Notice

NOTICE is hereby given that the 18<sup>th</sup> (Eighteenth) Annual General Meeting ("AGM") of the Members of Sikkim Urja Limited will be held on Thursday, 16<sup>th</sup> November 2023, at 11:30 a.m. through Video Conferencing ("VC")/Other Audio-Visual Means ("OAVM") facility to transact the following businesses:

### **ORDINARY BUSINESS(ES):**

**Item No. 1 - To receive, consider and adopt the Audited Standalone and Consolidated Financial Statements of the Company for the Financial Year ended March 31, 2023, along with the reports of the Board of Directors and Auditors' thereon and comments of the Comptroller & Auditor General of India.**

To consider and if thought fit, to pass with or without modification(s), the following resolution as **ORDINARY RESOLUTION:**

**"RESOLVED THAT** the Audited Standalone and Consolidated Financial Statements of the Company for the Financial Year ended March 31, 2023 along with the reports of the Board of Directors' and Auditors' thereon and comments of the Comptroller and Auditor General of India be and are hereby received, considered and adopted."

**Item No. 2 - To fix the remuneration of the Statutory Auditor of the Company, appointed by Comptroller and Auditor General of India (C&AG) for the Financial Year 2023-24.**

To consider and if thought fit, to pass with or without modification(s), the following resolution as **ORDINARY RESOLUTION:**

**"RESOLVED THAT** pursuant to the provisions of Sections 139 and 142 and all other applicable provisions, if any, of the Companies Act, 2013, read with Companies (Audit and Auditors) Rules, 2014 (including any statutory modification(s) or re-enactment thereof for the time being in force), the Board of Directors of the Company be and are hereby authorized to fix the remuneration of M/s. R K P Associates, Chartered Accountants, appointed by Comptroller and Auditor General of India (C&AG) as Statutory Auditor of the Company for the Financial Year 2023-24 as may be deemed fit."

### **SPECIAL BUSINESS(ES):**

**Item No. 3 - To ratify the remuneration of Cost Auditors of the Company for the Financial Year 2023-24.**

To consider and if thought fit, to pass with or without modification(s), the following resolution as **ORDINARY RESOLUTION:**

**"RESOLVED THAT** in accordance with the provisions of Section 148 of the Companies Act, 2013 read with the Companies (Cost Records and Audit) Rules, 2014 and any other provisions/rules as may be applicable of the Companies Act, 2013, the remuneration of M/s. Saurabh Raghav & Company, Cost Accountants, amounting to ₹ 1,24,500/- plus applicable Goods and Service Tax (GST) and actual out of pocket expenses for conducting Cost Audit of the Company for the Financial Year 2023-24, as approved



and recommended by the Board of Directors of the Company, be and is hereby ratified.

**RESOLVED FURTHER THAT** the Board of Directors of the Company be and is hereby authorised to do all acts and take all such steps as may be necessary, proper or expedient to give effect to this resolution.”

**Item No. 4 - To consider and approve the adoption of revised set of Articles of Association of the Company and the Restated Shareholders Agreement as per the recommendation of the Board.**

To consider and if thought fit, to pass with or without modification(s), the following resolution as **SPECIAL RESOLUTION:**

**“RESOLVED THAT** pursuant to the provisions of Sections 14 of the Companies Act, 2013 (“the Act”) and all other applicable provisions, if any, of the Act read with the Rules made thereunder, as amended or re-stated from time to time, the revised set of Articles of Association of the Company as approved and recommended by the Board of Directors of the Company, submitted to this meeting, be and are hereby approved and adopted by the Members, in substitution and to the entire exclusion of the regulations contained in the existing Articles of Association of the Company, with immediate effect.

**RESOLVED FURTHER THAT** the Restated Shareholders’ Agreement (RSHA) to be executed between the Company and all the Shareholders of the Company, as placed before this meeting and initialled by the Company Secretary for the purpose of identification, in place of the existing Restated Shareholder’s Agreement (RSHA) dated 28.02.2017, be and is hereby approved for execution.

**RESOLVED FURTHER THAT** the Board of Directors of the Company or any other official of the Company duly authorized by the Board, be and are hereby authorized to do all such acts, deeds and things as may be deemed necessary including execution and signing of the agreements/documents(s) to give effect to the above stated resolution/s.”

**By the order of Board of Directors  
For Sikkim Urja Limited (Formerly known as Teesta Urja Limited)**



**Sd/-  
P. C. Jain  
Company Secretary  
Membership No. A5875**

**Date: 18.10.2023  
Place: New Delhi**

## NOTES:

1. The Ministry of Corporate Affairs (“MCA”) has, vide its circular dated December 28, 2022 read together with circulars dated May 05, 2020, April 13, 2020 and April 08, 2020 (collectively referred to as “MCA Circulars”), have permitted to hold the AGM through Video Conferencing (“VC”)/Other Audio Visual Means (“OAVM”), without the physical presence of the Members at a common venue. In accordance with the MCA Circulars, provisions of the Companies Act, 2013 (“the Act”), the AGM of the Company is being held through VC / OAVM. The deemed venue of this AGM shall be the registered office of the Company situated at B2/1A Safdarjung Enclave Africa Avenue, Delhi - 110029.
2. Pursuant to the MCA Circulars, the facility to appoint proxy to attend and cast vote for the members is not available for this AGM. However, the Body Corporates are entitled to appoint authorized representatives to attend the AGM through VC/OAVM and participate thereat and cast their votes.
3. As per the provisions of Clause 3.B.IV. of the General Circular No. 20/ 2020 dated May 05, 2020, the matters of Special Businesses as appearing at Item No. 3 & 4 of the accompanying Notice, are considered to be unavoidable by the Board.
4. The Explanatory Statement pursuant to Section 102 of the Companies Act, 2013, in regard to the Special Business as set out in Item No. 3 & 4 is annexed hereto.
5. The attendance of the Members attending the AGM through VC/OAVM will be counted for the purpose of reckoning the quorum under Section 103 of the Act.
6. The Members can join the AGM in the VC/OAVM mode 15 minutes before and 15 minutes after the scheduled time of the commencement of the AGM by following the procedure mentioned in the Notice.
7. The Members will be allowed to pose questions during the course of the Meeting. The queries can also be given in advance at [secretarial@sikkimurjalimited.in](mailto:secretarial@sikkimurjalimited.in)
8. Members desiring inspection of statutory registers and to inspect the relevant documents referred to in the Notice during the AGM may send their request in writing to the Company at [secretarial@sikkimurjalimited.in](mailto:secretarial@sikkimurjalimited.in) up to the date of the AGM.
9. The instructions for Members attending the AGM through VC/OAVM are as under:
  - A. The Members will be provided with a facility to attend the AGM through VC/OAVM and the link in this regard will be send separately on the registered email Ids of the Members.
  - B. Members may join the AGM through laptops, smartphones, tablets and iPads for better experience. Further, Members will be required to use Internet with a good speed to avoid any disturbance during the Meeting. Members will need the latest version of Chrome, Safari, Internet Explorer 11, MS Edge or Firefox. Please note that participants connecting from mobile devices or tablets or through laptops connecting via mobile hotspot may experience Audio/Video loss due to fluctuation in their respective network. It is, therefore, recommended to use stable Wi-Fi or LAN connection to mitigate any glitches.
10. Copy of Audited Standalone and Consolidated Financial Statements of the Company for the Financial Year ended March 31, 2023, along with the reports of the Board of Directors and Auditors’ thereon are enclosed to the notice.





**EXPLANATORY STATEMENT**  
**Pursuant to Section 102 of the Companies Act, 2013**

The following statement sets out all material facts relating to the **SPECIAL BUSINESSES** as mentioned in the accompanying notice:

**Item No. 3**

The Members are informed that as per the provisions of Section 148 of the Companies Act, 2013 (Act) read with Rule 4 of the Companies (Cost Records and Audit) Rules, 2014, the Company is required to get its Cost Records audited for the Financial Year 2023-24. Further, the Cost Audit is required to be conducted by a Cost Accountant in practice who shall be appointed by the Board, on the recommendation of Audit Committee, and at such remuneration approved by the Board, subject to ratification by the Shareholders of the Company.

In view of the above, the Board of Directors in their 110<sup>th</sup> Board Meeting held on 02.08.2023 has approved the appointment of M/s. Saurabh Raghav & Company, Cost Accountants, for conducting Cost Audit of the Company as per the provisions of the Companies Act, 2013 for the Financial Year 2023-24, at a professional fee of ₹ 1,24,500/- plus applicable Goods and Service Tax (GST) and actual out of pocket expenses for travel outside Delhi NCR on the recommendation of the Audit Committee. As per the provisions of Section 148 of the Act, the aforesaid remuneration approved by the Board is subject to the ratification by the Shareholders of the Company.

Accordingly, your Directors recommend this resolution for approval as **ORDINARY RESOLUTION**.

None of the Directors or Key Managerial Personnel of the Company and their relatives is /are, in any way, financial or otherwise concerned or interested in the proposed resolution.

**Item No. 4**

The Members are hereby informed that Greenko Group Entities have acquired 34.30 % equity stake in the Company from various shareholders, which has been approved by the Government of Sikkim and the Company's lenders. Approval has also been granted for the acquisition of an additional 5.62 % stake from PTC India Limited and three other shareholders. However, pending the completion of these acquisitions, the necessary amendments as required under post transfer compliances to the Restated Shareholders Agreement (RSHA) and Articles of Association (AoA) were on hold.

In the 108<sup>th</sup> Board Meeting held on dated 15.03.2023, it was directed that if the aforesaid pending transfers do not take place by dated 31.03.2023, then the necessary amendments be carried out in RSHA and AoA of the Company as per the provisions of the Companies Act 2013.

Accordingly, the existing Articles of the Association need to be modified to accommodate the changes resulting from the share transfer to Greenko Group Entities. It was also required to modify Article 167.2.1 of the existing AoA which has been already approved by the Board in its meeting held on 16.01.2023 subject to the approval of the lenders which has been received. Additionally, certain articles were also required to be modified due to changes in the law.

Further, the consequential amendments were also required in the Restated Shareholders Agreement to align with the amendments in the Articles of Association.

Accordingly, in the 109<sup>th</sup> Board Meeting held on 30.06.2023, the Board of Directors have approved the amendments in the existing Articles of Association of the Company to reflect the consequential changes required due to transfer of shares to Greenko Group Entities from various shareholders of the Company.



In addition, the Board of Directors has also accorded their consent to carry out the consequential and necessary amendment as approved by GoS in the RSHA dated 28.02.2017 subject to the approval of Shareholders.

In view of the above, the draft of the RSHA & AoA are forming part of this notice for perusal and approval of the Members as Annexure- A and B respectively.

The Members are further informed that upon the execution of the Restated Shareholders' Agreement (RSHA), the RSHA will supersede the earlier Restated Shareholders' Agreement dated 28.02.2017 and upon approval of new set of Articles of Association will be in substitution and to the entire exclusion of the regulations contained in the existing Articles of Association of the Company, with immediate effect.

It may be noted that the Restated Shareholders' Agreement is to be executed between Government of Sikkim, Shareholders of the Company and the Company.

Accordingly, your Directors recommend this resolution for approval as SPECIAL RESOLUTION.

None of the Directors or Key Managerial Personnel of the Company and their relatives is /are, in any way, financial or otherwise concerned or interested in the proposed resolution.

**By the order of Board of Directors  
For Sikkim Urja Limited (Formerly known as Teesta Urja Limited)**



**Date: 18.10.2023  
Place: New Delhi**

**Sd/-  
P. C. Jain  
Company Secretary  
Membership No. A5875**

**RESTATED SHAREHOLDERS' AGREEMENT**

This Restated Shareholders' Agreement (hereinafter referred to as "Agreement") is entered into at \_\_\_\_\_, on this \_\_\_\_ day of \_\_\_\_\_, 2023

**BY AND BETWEEN**

**GOVERNMENT OF SIKKIM**, through the **Governor of Sikkim**, in turn acting through the Principal Chief Engineer cum Secretary to the Government of Sikkim, Energy & Power Department (hereinafter referred to as "**Government or GoS**", which expression shall, unless excluded by or repugnant to the context or meaning thereof, mean and include its successors, administrators and permitted assigns) of the **FIRST PART**;

**AND**

**SIKKIM POWER INVESTMENT CORPORATION LIMITED**, a 100% wholly owned public limited liability company of Government of Sikkim, incorporated under the Registration of Companies Act, Sikkim, 1961 and having its registered office at Beside Manan Bhawan, Development Area, Jeevan Theng Marg, Gangtok (Sikkim) - 737101, (hereinafter referred to as "**SPICL**", which expression shall, unless repugnant to or excluded by the context or subject thereof, mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **SECOND PART**;

**AND**

**SIKKIM URJA LIMITED (FORMERLY: TEESTA URJA LIMITED)**, a public limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U31200DL2005SGC133875 and having its registered office at B2/1A Safdarjung Enclave, Africa Avenue, New Delhi-110029 (hereinafter referred to as "**SUL or Company**", which expression shall, unless repugnant to or excluded by the context or subject thereof, mean and include its successors, administrators and permitted assigns) of the **THIRD PART**;

**AND**

**ASIAN GENCO TUL PTE. LTD.**, a limited liability company incorporated under the laws of Singapore with company registration no. 201706874R and having its registered office at 100 Cecil Street #15-02, The Globe, Singapore 069532 (hereinafter referred to as "**AGTPL**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **FOURTH PART**;

**AND**

**GREENKO ENERGIES PRIVATE LIMITED**, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40109TG2000FTC034990 and having its registered office at Plot No.1071, Road No.44 Jubilee Hills, Hyderabad, Telangana - 500033 (hereinafter referred to as "**GEPL**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators

and permitted assigns) of the **FIFTH PART**;

**AND**

**PTC INDIA LIMITED**, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number L40105DL1999PLC099328 and having its registered office at 2<sup>nd</sup> floor, NBCC Tower, 15, Bhikaji Cama Place, New Delhi-110066 (hereinafter referred to as “**PTC**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **SIXTH PART**;

**AND**

**FORTUNE FIVE HYDEL PROJECTS PRIVATE LIMITED**, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40101KA2005PTC036626 and having its registered office at No. 66, 4th A cross, 3rd Main, Dollars Colony, RMV 2nd stage, Bangalore, Karnataka - 560094 (hereinafter referred to as “**FFHPPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **SEVENTH PART**;

**AND**

**GREENKO RAYALA WIND POWER PRIVATE LIMITED**, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40108TG2010PTC071897 and having its registered office at First Floor, Block D, Plot No.13, SY. No. 64 Part Hitech City Layout, Madhapur Village, Hyderabad, Rangareddi Telangana - 500081 (hereinafter referred to as “**GRWPPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **EIGHTH PART**;

**AND**

**ENERGY INFRATECH PRIVATE LTD.**, a private limited company incorporated under Indian Companies Act, 1956 under corporate identity number U40101DL2004PTC148280 and having its registered office at 14, Factory Road, Block no. A, Ground floor, Adjoining Vardhman Mahavir Medical College, Safdarjung, New Delhi- 110029 (hereinafter referred to as “**EIPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, administrators and permitted assigns) of the **NINTH PART**;

**AND**

**GLOBAL FUELS PTE. LTD.**, a limited liability company incorporated under Singapore Laws with company registration number 200719223R and having its registered office at 50, Raffles Place, #32-01, Singapore Land Tower- 048623 (hereinafter referred to as “**GFPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, administrators and permitted assigns) of the **TENTH PART**;

**AND**

**INDUS HYDRO POWER (INDIA) PRIVATE LTD.**, a private limited company incorporated under Indian Companies Act, 1956 under corporate identity number U40108DL2010PTC069348 and having its registered office at Flat No. 1005, 10<sup>th</sup> Floor, Ambadeep Building, K. G. Marg, New Delhi – 110001 (hereinafter referred to as “**IHPPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, administrators and permitted assigns) of the **ELEVENTH PART**;

**AND**

**GUTTASEEMA WIND ENERGY COMPANY PRIVATE LIMITED**, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40108TG2008PTC059988 and having its registered office at Ground Floor, Block D, Plot No.13, SY. NO. 64 Part Hitech City Layout, Madhapur Village, Hyderabad Rangareddi, Telangana - 500081 (hereinafter referred to as “**GWECPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **TWELFTH PART**;

**AND**

**RATNAGIRI WIND POWER PROJECTS PRIVATE LIMITED**, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40105PN2010PTC139797 and having its registered office at JJ Arcade, final plot no. 480, TPS. No.1 Shaniwar Peth, N.H.4 Karad Satara, Maharashtra - 415110 (hereinafter referred to as “**RWPPPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **THIRTEENTH PART**;

**AND**

**VYSHALI ENERGY PRIVATE LIMITED**, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U31100KA2008PTC045946 and having its registered office at No.66, 4th A Cross, 3rd Main, Dollars Colony, RMV 2nd Stage Bangalore, Karnataka - 560094 (hereinafter referred to as “**VEPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns) of the **FOURTEENTH PART**;

**WHEREAS:**

- A. The GoS and SUL had entered into the Implementation Agreement dated 18.07.2005 for development of the 1200 MW Teesta Stage III Hydro Power Project on a Build, Own Operate and Transfer basis under joint sector with GoS (the “**Project**”).
- B. Under the Article 4.18 of the Implementation Agreement, SUL has the responsibility of evacuation of power from the Project. In pursuance with discharge of its responsibility, SUL entered into a Joint Venture with M/s Power Grid Corporation of India Limited (“**POWERGRID**”) and formed a SPV namely M/s Teestavalley Power Transmission Ltd



(“TPTL”), a limited liability company incorporated under the Indian Companies Act, 1956, to develop the required transmission line (the “**Transmission Project**”) for evacuation of power from the Project.

- C. Subsequently, the GoS, SPICL, the Company and Athena Consortium entered into a shareholders’ agreement dated December 10, 2012 (the “**Shareholders’ Agreement**”) to govern the *inter-se* rights of the Shareholders of the SUL with respect to management of the SUL. As per Clause 3 of the Shareholders’ Agreement, the GoS / SPICL was entitled to a 26% (twenty six per cent.) equity shareholding of the SUL and Athena Consortium was obligated to infuse the remaining 74% (seventy four per cent.) of the equity shareholding of the SUL.
- D. Pursuant to discussions and the non-infusion of equity by the other non GoS Shareholders i.e. members of Athena Consortium, towards the second cost overrun of the Project, who were under the obligation as per the Shareholders’ Agreement to provide for the equity share capital of the Company and to achieve the commissioning of the Project, the GoS / SPICL with agreement of all other Shareholders: (i) infused funds into the SUL, by acquiring 489,922,971 fresh equity shares of the Company (and thereby diluting the other Shareholders) and (ii) pursuant to the Share Purchase Agreement dated August 06, 2015 acquired 31,24,41,829 shares of the Company from the members of the Athena Consortium consequent to which the GoS/ SPICL became the holder of the majority shareholding of the Company, i.e., 51% (fifty one per cent.) of the equity shareholding of the Company on a fully diluted basis, and the Company became a GoS Company/enterprise with effect from 06.08.2015.
- E. The project cost at 3<sup>rd</sup> cost overrun of the Project amounting to Rs. 13965 Crores along with the revised scheduled CoD of the Project i.e. 31.03.2017 was decided prior to the GoS taking majority equity stake in the Company. The equity component to be subscribed by GoS/SPICL and Athena Consortium members towards the 3<sup>rd</sup> Cost Overrun of SUL and 2<sup>nd</sup> Cost Overrun of TPTL was Rs. 593.91 Crores. All the Non-GoS shareholders have not subscribed to their proportionate equity share capital required for the equity subscription in respect of the 3<sup>rd</sup> Cost Overrun of the Project and 2<sup>nd</sup> Cost Overrun of TPTL. The GoS/SPICL have agreed to subscribe to not only their proportionate share in the equity share capital of the Company required for the equity subscription in respect of the 3<sup>rd</sup> Cost Overrun of the Project and 2<sup>nd</sup> Cost Overrun of TPTL, but have also agreed to subscribe the proportionate equity share capital to be subscribed by the members of Athena Consortium in respect of the 3<sup>rd</sup> Cost Overrun of the Project and 2<sup>nd</sup> Cost Overrun of TPTL.
- F. Pursuant to the Share Purchase Agreement dated 06.08.2015, the Restated Shareholders Agreement dated 28.02.2017 were entered into, *inter-alia*, to record and give effect to: (i) the revised shareholding structure of the Company, with GoS / SPICL as a majority shareholder, i.e., 60.08%; Athena Consortium, other shareholder and individual shareholders holding 39.92% of equity shares of the Company, (ii) the modification in *inter se* rights of the Shareholders with respect to the management of the Company consequent to GoS/ SPICL becoming the majority Shareholder of the Company, and (iii) cause amendments to the Implementation Agreement, Shareholders’ Agreement, and the Articles of Association of the Company to suitably reflect the changes as per Share Purchase Agreement dated 06.08.2015 and New Companies Act, 2013.

- G. Subsequently, Greenko Group Entities acquired 34.30% equity stake in the Company from various shareholders viz. Asian Genco Pte. Ltd. (AGPL), Athena Projects Private Limited, APPL Power Private Limited and Dr. Chunchu Raghuvera Prasad, Mr. Srinivasan Gopalakrishnan, Mr. Hashu Pessumal Bhagat, Mr. Mulakala Surya Prakasa Rao, Mr. P.R. Ravikiran, Mr. Rajendra Singh and Ms. Padmavathi Vusirikala. Such has resulted in this agreement being entered into, inter-alia, to record and give effect to: (i) the revised shareholding structure of the Company, with GoS / SPICL as a majority shareholder, i.e., 60.08%; Greenko Consortium, other shareholder and individual shareholders holding 39.92% of equity shares of the Company, (ii) the modification in inter se rights of the Shareholders with respect to the management of the Company consequent to acquisition of shares by Greenko Group Entities from existing shareholders of the Company, and (iii) cause amendments to the Implementation Agreement, Shareholders' Agreement, and the Articles of Association of the Company to suitably reflect the changes as per the acquisition of shares by the Greenko Group Entities.
- H. **NOW, THEREFORE**, in consideration of the premises and mutual agreements and covenants and other good and valuable consideration contained in this Agreement, each of the Parties with the intent to be legally bound, hereby covenants and agrees as follows:

## 1. DEFINITIONS AND INTERPRETATION

For the purposes of this Agreement, in addition to the terms defined in the description of Parties and the recitals hereinabove: (i) all capitalized words and expressions defined by inclusion in quotation and / or parenthesis anywhere in this Agreement, have the same meanings as ascribed to such words and expressions; and (ii) following words and expressions shall have the meanings as set-out in this Clause 1 below. Further, the terms used herein but not defined shall have the same meaning assigned to them in the Restated Articles.

- (i) **"Act"** shall mean the (Indian) Companies Act, 2013, and Rules framed thereunder, including any statutory modification or re-enactment thereof for the time being in force and the term shall be deemed to refer to the applicable section thereof which is relatable to the relevant Regulation in which the said term appears in these Regulations and any previous company law, so far as may be applicable, including Rules, and such sections of the Companies Act, 1956 as are in force for the time being, as the context may require;
- (ii) **"Agreement"** means this Restated Shareholders' Agreement entered into hereto and amended from time to time and shall include all the schedules, annexures, and exhibits hereto;
- (iii) **"Applicable Law"** means all laws, statutes, rules, regulations, orders, guidelines, policies, notices, directions, administrative practices, or other requirements of any government authority binding on or affecting the Parties or the Transaction.
- (iv) **"Articles"** shall mean the articles of association of the Company which are in effect as of the date hereof;
- (v) **"Associate"** means a company in which that other company has a significant

influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

Explanation.—For the purposes of this clause, "significant influence" means control of at least twenty per cent of total share capital, or of business decisions under an agreement;

- (vi) **"Affiliate"** means in relation a Party any other person that, either directly or indirectly through one or more intermediate persons, controls, is controlled by or is under common Control with such Party. For purposes of this definition, "control" includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.
- (vii) **"Athena Consortium"** shall mean the consortium led by Athena Projects Private Limited, and other consortium members, such as, and also consisting of Asian Genco Pte. Limited ("AGPL"), Indus Clean Energy (India) Private Limited ("ICE"), PTC India Limited ("PTC") and APPL Power Private Limited ("APPL Power") and other investors including financial institutions and private equity investors.
- (viii) **"Board"** means the Board of Directors of the Company;
- (ix) **"Business Day"** means a day (excluding Saturdays and Sundays) on which banks generally are open in India for the transaction of normal banking business.
- (x) **"Control"** shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;
- (xi) **"Commercial Operation Date or COD"** shall have the meaning given to such term in the Implementation Agreement;
- (xii) **"2<sup>nd</sup> Cost Overrun"** shall mean 2<sup>nd</sup> cost overrun of the Project with additional cost of Rs. 2801 Crores in the debt : equity ratio of 80:20 resulting in the total Project Cost of Rs. 11, 382 crores;
- (xiii) **"3<sup>rd</sup> Cost Overrun"** shall mean 3<sup>rd</sup> cost overrun of the Project with additional cost of Rs. 2583 Crores in the debt : equity ratio of 80:20 resulting in the total Project cost of Rs. 13,965 crores;
- (xiv) **"Greenko Consortium"** shall mean the consortium including of the Greenko group entities, viz. AGTPL, FFHPPL, GEPL, GRWPPL, GWECPL, RWPPPL, and VEPL . Further, the GoS, SPICL, SUL, Greenko Consortium, EIPL, GFPL, IHPPL, PTC are hereinafter individually referred to as "Party" and collectively as "Parties".

- (xv) **“GoS”** means the Government of Sikkim, in India, and / or its Associates / nominees;
- (xvi) **“GoS Company”** shall mean a company over which GoS has Control;
- (xvii) **“Implementation Agreement”** shall mean the implementation agreement between the GoS and the Company dated July 18, 2005 and as amended from time to time;
- (xviii) **“Nominee Director”** shall have the meaning assigned thereto under section 161 of the Act;
- (xix) **“Shareholders”** means each of AGTPL, GEPL, PTC, GoS / SPICL, EIPL, GFPL, IHPPL, FFHPPL, RWPPPL, GRWPPL, GWECPL, VEPL and other duly registered holders of equity shares of the Company from time to time; and
- (xx) **“Share Purchase Agreement”** means the share purchase agreement dated August 06, 2015 entered into between the Shareholders and the Company.

## 2. CAPITAL STRUCTURE

- 2.1.** The equity shareholding structure of the Company on a Fully Diluted Basis after the transfer of shares from the Asian Genco Pte. Ltd. (AGPL), Athena Projects Private Limited, APPL Power Private Limited and Dr. Chunchu Raghuvera Prasad, Mr. Srinivasan Gopalakrishnan, Mr. Hashu Pessumal Bhagat, Mr. Mulakala Surya Prakasa Rao, Mr. P.R. Ravikiran, Mr. Rajendra Singh and Ms. Padmavathi Vusirikala to the Greenko Group Entities is as follows:

Name of Shareholder	No. of Shares	Percentage Shareholding
GoS/SPICL	1,925,762,600	60.08
AGTPL	966,587,638	30.16
PTC	180,052,223	5.62
GEPL	132,984,539	4.14
GFPL / AGPL	100	0.00
IHPPL / ICE	100	0.00
EIPL / ICE	100	0.00
FFHPPL	100	0.00
RWPPPL	100	0.00
GRWPPL	100	0.00
GWECPL	100	0.00
VEPL	100	0.00
<b>Total</b>	<b>3,205,387,800</b>	<b>100.00</b>

- 2.2.** The Parties acknowledge that the GoS / SPICL has a right to hold at least 51% (fifty one per cent.) of the equity shareholding in the Company as per the decision of GoS. All Shareholders



of the Company agree for maintenance of minimum equity shareholding of 51% by GoS/SPICL in the Company as per the decision of the GoS.

- 2.3.** In the event any further equity infusion is required by the Company, *inter-alia*, for the reason of the requirement of additional capitalization; for funding the impact of force majeure event; for funding any impact of change of law, then the said equity infusion shall happen as per the provisions of the Act on rights basis.
- 2.4.** The Shareholders further agree and acknowledge that any shares held by the GoS / SPICL and / or any GoS Company, as the case may be, are exempted from being pledged, and any and all shares held by GoS / SPICL and / or any GoS Company, as the case may be, shall not be subject to pledge requirements. The Shareholders agree that shares held by all Shareholders (other than the shares held directly by GoS / SPICL and / or any GoS Company and PTC), shall be subject to the requirement of pledge to be provided as security to the Lenders on a pro-rata basis to their shareholding, where so required by the Lenders. The Shareholders shall do all such acts, deeds and things as may be necessary or required or incidental thereto, to achieve the aforesaid purpose.
- 2.5.** All the Parties agree and state that the financial interest of the GoS exchequer would be protected by ensuring that the GoS/SPICL/GoS Company, partakes at first instance in proportion to its shareholding, and before any other Shareholder shares the same, in the proceeds of return of equity funds generated as per the Central Electricity Regulatory Commission regulated rates on the equity funds invested by GoS/SPICL/GoS Company in the Company, subject to applicable law(s).
- 2.6.** The Parties acknowledge that there may be present or future third party outflows/claims, which are pending/may be raised against the Company. The Parties herein agree that the said third party outflows/claims (except for Term Loan outflows) would be resolved by all the Parties amicably and expeditiously.
- 2.7.** The Parties represent that they have mutually resolved and/or settled all inter-se disputes, claims and/or demands asserted by any Party against another Party, as a result of, arising from, or in connection with the Project existing on 06.08.2015. Each Party covenants that they and their Affiliates have already withdrawn all suits, proceedings, claims, demands, allegations, first information reports and actions initiated by such Party or any of and/its Affiliates against another Party and/or its Affiliates before any authority or forum (including any court, tribunal, arbitration, lok-adalat, Company) as a result of, arising from, or in connection with the Project as existing on 06.08.2015. The Parties also agree to settle all the pending issues which Teestavalley Power Transmission Limited ("TPTL") has with its erstwhile contractors, with the Company taking the responsibility for the settlement of the same even to the extent of absorbing the impact of said settlement if the other shareholders of TPTL do not agree to take the impact of the said settlement. The Parties acknowledge and confirm that they are relying on the aforesaid covenant of the counterpart in entering into this Agreement.

### **3. MANAGEMENT RIGHTS**

#### **3.1. Board Composition:**

3.1.1. The Board of the Company shall consist of 14 (Fourteen) Directors. Without prejudice to the generality of the foregoing, the Board of the Company shall consist of the following:

- a) GoS/SPICL shall have the right to nominate 6 (six) Directors;
- b) AGTPL shall have the right to nominate 2 (two) Directors;
- c) Rural Electrification Corporation Limited (“REC”) (lead lender of the Company) shall have the right to nominate 1 (one) Director;
- d) Power Finance Corporation Limited (“PFC”) (lender of the Company) shall have the right to nominate 1 (one) Director;
- e) PTC shall have the right to nominate 1 (one) Director; and
- f) GEPL shall have the right to nominate 1 (one) Director,
- g) GoS shall have the right to appoint 2 (two) independent directors, of which one shall be a woman, on the Board of the Company as per provisions of the Act.
- h) The respective Shareholders, REC and PFC shall have the right to replace their nominee Directors.

3.1.2. The Company has a right to nominate 7 (seven) representatives out of 12(twelve) on the board of directors of TPTL. The following Parties would be entitled to nominate through the Company, the nominee Directors of Company on the board of TPTL:

- (i) GoS/ SPICL shall have the right to nominate 5 (five) representatives;
- (ii) GEPL shall have the right to nominate 1 (one) representative; and
- (iii) AGTPL shall have the right to nominate 1 (one) representative,

### **3.2. Chairman and Managing Director**

3.2.1 GoS / SPICL shall have the right to nominate the Chairman and the Managing Director of the Company. The Chairman of the meeting of the Board shall always be a GoS nominee on the Board. This right of GoS/SPICL shall include the right to seek removal, and the right to nominate any replacement thereof.

3.2.2 Each of the Shareholders shall do all acts necessary, including exercise of all rights (including voting rights) through its nominee Directors on the Board of the Company, and also exercise all rights (including voting rights) in any Shareholders’ meetings of the Company, to give effect to the nomination, removal or replacement of the aforesaid nominee Directors on the Board of the Company by respective Shareholders.

### **3.3. Valid Quorum for a Board/ Management Committee of Directors meeting**

The presence of at least 1(one) Director nominated by GoS/SPICL or its Associates, 1(one) Director nominated by AGTPL or its Associates, and 1(one) Director nominated by GEPL or its Associates, shall be mandatory to form requisite quorum for all Board Meetings / Management Committee of Directors meeting.

In case a valid quorum is not present within 30 (thirty) minutes for a scheduled Board Meeting, the said meeting shall be adjourned to the same day, same time and same venue in the following week or if such day is a National/public holiday, then to the next Business Day

thereafter. In such an adjourned Board meeting, except for the mandatory requirement of presence of at least 1 (one) Director nominated by GoS/SPICL or its Associates, the other conditions required for quorum in the Board meeting so adjourned shall not be a condition for constituting a valid quorum for such adjourned meeting of the Board.

In case a valid quorum is not present within 30 (thirty) minutes for a scheduled Management Committee of Directors Meeting, the said meeting shall be adjourned to the next day at the time communicated by the Chairman of the Management Committee of Directors. In such an adjourned Management Committee of Directors meeting, except for the mandatory requirement of presence of at least 1 (one) Director nominated by GoS/SPICL or its Associates, the other conditions required for quorum in the said meeting so adjourned shall not be a condition for constituting a valid quorum for such adjourned meeting of the Management Committee of Directors.

For the avoidance of doubt, it is hereby clarified that such adjourned Board/ Management Committee of Directors meeting shall not include any matters specified in Annexure - 1 which require the affirmative vote of the GoS / SPICL Directors on the Board and the GoS / SPICL representative in the Shareholders' meeting, other than as included in the agenda contained in the written notice for meeting, which got adjourned due to lack of valid quorum.

### **3.4. Affirmative Rights**

All matters listed in **Annexure 1** shall require the affirmative vote of the GoS / SPICL Directors in the Board Meeting(s) and shall require the affirmative vote of the GoS/SPICL representatives in the Shareholder's Meeting(s).

### **3.5. Comprehensive Management System**

The Company shall implement comprehensive management information systems and corporate governance programs, including:

- (a) GoS/SPICL shall have right to appoint at least 1(one) director in Audit Committee, Nomination & Remuneration Committee and Corporate Social Responsibility Committee and in any other Committee appointed by the Board.
- (b) Managing Director of the Company should provide construction, operation & maintenance, financial and all other updates to the Board of the Company every quarter, and to the directors upon request / demand made.
- (c) The Company shall provide to all Directors access to all the books of accounts and shall provide quarterly financial statements relating to the operations and activities of SUL including un-audited balance sheets, profit and loss statements and cash flow statements and such other information and documents as a Director may reasonably request.
- (d) The Company shall duly pay all applicable taxes and duties according to law / rules/ regulations of the GoS/SPICL and Applicable Law of India and as may be required by the Implementation Agreement. Further, the Company shall pay Environment Cess @ 1 Paise per unit of electricity sold to GoS/SPICL or other amount as may be required by the Implementation Agreement or under Applicable Law.

- (e) The Company shall prepare business plan, all financial budgetary and operational accounts, reports and reviews, in accordance with generally accepted accounting norms followed in India and as required by Applicable Laws and regulations and prepare its financials accounts as required under the Act in accordance with the Indian accounting standards.
- (f) The Company shall adopt tax accounting practices as per applicable Indian regulations including Income Tax laws governing limited liability companies in India, and customs and practices in India.
- (g) The GoS and the Company shall ensure that the terms and conditions of employment (including remuneration, increments, promotions, etc.) of existing employees of the Company existing as on 06/08/2015 are not altered till the expiry of 6 months of COD.

### **3.6. Valid Quorum for a Shareholders' Meeting**

All general meetings of the Shareholders shall be governed by the Act, this Agreement and the Restated Articles. The presence of 1 (one) GoS/SPICL representative, 1 (one) GEPL representative and 1 (one) AGTPL representative shall be mandatory to form the requisite quorum for any Shareholders' meeting. The Shareholders shall use all reasonable endeavours to procure that a valid quorum is present at and throughout each meeting of the Shareholders. In case the quorum is not present, the scheduled meeting shall be adjourned to the same day, same venue and same time in the following week or if such day is a holiday, to the next Business Day thereafter. If at such adjourned meeting of the Shareholders, an AGTPL representative, GEPL representative or a GoS/SPICL representative is not present, but the number of representatives of the Shareholders present is sufficient to constitute a valid quorum under the Act, then the Shareholders present shall be deemed to constitute a valid quorum for that meeting. In such an event, the requirement for the presence of 1 (one) GoS/SPICL representative, 1 (one) GEPL representative and 1 (one) AGTPL representative shall not be a condition for constituting a valid quorum for such adjourned meeting of the Shareholders. No special resolution can be passed in a general meeting without the presence of a representative of GoS/SPICL, provided that, if the representative of GoS/SPICL is absent for two consecutive shareholders' meetings convened to consider any special resolution, presence of GoS/SPICL representative will not be required for any further meeting convened to consider such special resolution.

### **3.7. EXIT MECHANISM**

GoS/SPICL agrees to consider any proposal of any other Shareholder made after completion of 2 ("Two") Years from the Commercial Operation Date of the Project or earlier on mutual beneficial terms to divest some part of GoS/SPICL's equity share capital in the Company either in favour of such person or public/IPO, to whom the said Shareholder is selling its equity shares in the Company.

## **4. REPRESENTATIONS AND WARRANTIES**

Each Party warrants and represents to the Parties that:



- (a) it has full legal capacity to enter into this Agreement and to perform its obligations under it and has taken all action necessary to authorise such execution and delivery and the performance of such obligations; and
- (b) this Agreement has been duly executed and delivered by it, and constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with the terms and conditions of this Agreement.
- (c) except as provided hereunder, neither the execution nor performance of this Agreement by such Party will conflict with, or result in a breach of, or give rise to an event of default under, or require the consent of a person under, or enable a person to terminate, or relieve a person from an obligation under, an Agreement, arrangement or obligation to which such Party is a party.
- (d) such Party is entering into this Agreement on its own behalf and not on behalf of any other persons and has full power to enter into and perform and have obtained all applicable governmental, statutory, regulatory or other consents, approvals, licences, waivers or exemptions required to empower it to enter into and to perform its obligations under this Agreement.

## **5. ARTICLES OF ASSOCIATION**

The Parties agree that the Restated Articles will, at all times, incorporate and reflect the terms of this Agreement. Each party hereby agrees to exercise its respective voting rights (at the Board and Shareholders level Meeting) to take such actions as may be necessary to cause the Company to adopt the Restated Articles as annexed hereto as Annexure-2 within 7 days from the date of execution of this agreement. Till the time the amendment of Articles of Association (AoA) occurs, the AoA of the Company and the rights conferred on the shareholders therein would be read as if the said provisions and rights in this Agreement and the AoA has been modified and the provisions of SPA and this Agreement shall prevail.

## **6. NOTICES**

Any notice or other communication to be given under this Agreement must be in writing in English which includes fax and, subject to the appropriate enabling legislation, email (but not any other form of electronic communication) and must be delivered or sent by post, fax or email to the Party to whom it is to be given at its address set out below.

All notices and other communications required or permitted under this Agreement that are addressed as provided in this clause will be delivered by at least two of the following modes: (a) if delivered personally or by courier, be deemed upon delivery; (b) if delivered by facsimile transmission, be deemed given when electronically confirmed; and (c) if sent by registered mail, be deemed given when received. Any Party from time to time may change its address for the purpose of notices to that Party by giving a similar notice specifying a new address, but no such notice will be deemed to have been given until it is actually received by the Party sought to be charged with the contents thereof.

**If to the GoS:**

Energy & Power Department Government of Sikkim,  
Gangtok-737101, Sikkim, India  
Telephone No: 03592-202244/202 284/ 22 919  
Fax: 03592 202 927/202 284/ 228 186  
Marked to the attention of PCE cum Secretary

**If to the SPICL**

Beside Manan Bhawan, Development Area, Jeevan Theng Marg, Gangtok (Sikkim) 737101  
Marked to the attention of Chairman & Managing Director

**If to the Company:**

B2/1A Safdarjung Enclave, Africa Avenue, New Delhi 110029  
Marked to the attention of the Company Secretary

**If to AGTPL:**

Asian Genco TUL Pte. Ltd.100 Cecil Street #15-02, The Globe, Singapore 069532  
Email to Patrice.Tze@firstisland.sg  
Copy to vinay.b@greenkogroup.com &  
Sateeshgupta.k@greenkogroup.com

**If to PTC**

2nd floor, NBCC Tower, 15, Bhikaji Cama Place, New Delhi-110066  
Marked to the attention of Chairman cum Managing Director

**If to GEPL**

Plot No.1071, Road No.44 Jubilee Hills Hyderabad - 500033  
Email to secretarial@greenkogroup.com  
Copy to vinay.b@greenkogroup.com &  
Sateeshgupta.k@greenkogroup.com

**If to EIPL**

14, Factory Road, Block no. A, Ground floor, Adj. Vardhman Mahavir Medical College,  
Safdarjung, New Delhi- 110029  
Marked to the attention of Chairman

**If to GFPL**

50, Raffles Place, #32-01 Singapore Land Tower,  
Singapore – 048623  
Marked to the attention of Company Secretary

**If to IHPPL**

Flat No. 1005, 10<sup>th</sup> Floor, Ambadeep Building, K. G. Marg, New Delhi – 110001  
Marked to the attention of Company Secretary

**If to the FFHPPL, GRWPPL, GWECPL, RWPPPL, VEPL**

Email to [secretarial@greenkogroup.com](mailto:secretarial@greenkogroup.com)  
Copy to [vinay.b@greenkogroup.com](mailto:vinay.b@greenkogroup.com) &  
[Sateeshgupta.k@greenkogroup.com](mailto:Sateeshgupta.k@greenkogroup.com)

**7. CHANGES IN PARTICULARS OF ADDRESSEE**

Any change to the particulars of any Party, as set out in Clause 6 above, shall also be notified to all the other Parties, and till such time that the notice or other communication of any such change in the particulars is delivered to the other Parties, such changes shall not be effective and binding on such other Parties.

**8. ENTIRE AGREEMENT**

This Agreement supersedes all prior discussions and agreements, except the Implementation Agreement with respect to shareholding of GoS/SPICL in the Project (whether oral or written, including all correspondences) and this Agreement apart from the Implementation Agreement contains sole and entire agreement in respect of rights and obligations of GoS/SPICL in the Project. It is further agreed between the Parties that this Agreement is in supersession of all or any agreement(s) executed by the Company in respect of the Shareholders' rights, except the Implementation Agreement and Share Purchase Agreement vis-a-vis the conduct of business, management, voting rights on the Board/shareholders' meetings and shareholding structure of the Company. The Recitals and Annexures to this Agreement form an integral part of this Agreement and the Parties shall be bound by the same.

**9. COSTS AND STAMP DUTY**

Each Shareholder shall pay their own costs and expenses, including fees of legal counsel, taxes and cost of travel, incurred by it in connection with the execution of this Agreement.

Company shall bear stamp duty and costs payable in connection with execution of this Agreement.

**10. WAIVER FORBEARANCE AND VARIATION**

Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof. Such waiver must be in writing and must be executed by an authorized officer of such Party. A waiver on one occasion will not be deemed to be a waiver of the same or any other breach or non-fulfillment on a future occasion. All remedies, either under this Agreement, or by Law or otherwise afforded, will be cumulative and not alternative.

## **11. AMENDMENT**

This Agreement can only be amended, supplemented, replaced or novated, in writing, duly executed by the Parties.

## **12. SEVERABILITY**

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, and if the rights or obligations under this Agreement of the Parties will not be materially and be adversely affected thereby:

12.1. such provision will be fully severable;

12.2. this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; and

12.3. the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance

## **13. GOVERNING LAW, JURISDICTION & ARBITRATION**

(a) Any dispute or differences arising from and under this Agreement would in the first instance be referred for resolution to a Committee consisting of one representative each of the Parties. The said Committee would within 45 days of the receipt of such dispute / difference as referred to it by any Party endeavor to resolve the same.

(b) This Agreement shall be governed by, and construed and interpreted in accordance with the laws of India.

(c) Any dispute that could not be settled as per provisions of 13(a) above shall be settled exclusively and finally by arbitration under the Arbitration and Conciliation Act, 1996 as amended and replaced, and the rules framed thereunder.

(d) The place of Arbitration shall be Sikkim and, the Courts in Sikkim shall alone and exclusively have the jurisdiction in respect of any dispute arising out or in connection with this Agreement.

(e) The arbitral tribunal shall consist of three arbitrators, one arbitrator appointed by the GoS and one appointed jointly by SUL, Greenko Consortium members, PTC, and other investors including financial institutions and private equity investors and such appointed arbitrators would appoint a third arbitrator within a period of 30 (thirty) days who would preside over the arbitral tribunal. In the event of failure to appoint arbitrator as aforesaid, the Arbitrators shall be appointed as per the provisions of Arbitration and Conciliation Act, 1996. The language to be used in the arbitration shall be the English language exclusively, and the award shall be a reasoned one written in the English Language.



- (f) Any decision of award of the arbitral tribunal shall be final and binding upon the Parties. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any competent court having jurisdiction thereof.

#### 14. CONFIDENTIALITY

During the term of this Agreement and after termination or expiration of this Agreement for any reason whatsoever the Receiving Party shall:

- (i) keep the Confidential Information confidential;
- (ii) not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party; and
- (iii) not use the Confidential Information for any purpose other than the performance of its obligations under this Agreement.

During the term of this Agreement, the Receiving Party may disclose the Confidential Information to its employees and advisers (the “**Recipient**”) to the extent that it is necessary for the purposes of this Agreement.

The Receiving Party shall procure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a Party to this Agreement.

The obligations contained in Clauses (i) to (iii) above shall not apply to any Confidential Information which:

- (a) is at the date of this Agreement or at any time after the date of this Agreement comes into the public domain other than through breach of this Agreement by the Receiving Party or any Recipient;
- (b) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known to the Receiving Party prior to it being disclosed by the Disclosing Party to the Receiving Party; or
- (c) subsequently comes lawfully into the possession of the Receiving Party from a third party.

For the purposes of this Clause, “**Confidential Information**” means all information of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one Party (the “**Disclosing Party**”) to any other Party (the “**Receiving Party**”) whether before or after the date of this Agreement.

**15. INDEMNITIES**

In the event of any breach by either Party of any representation, warranty, covenant or agreement made or given by either Party in this Agreement, such Party undertakes to indemnify and hold harmless the other Party to the extent of any and all damages (including without limitation all losses, costs, damages, fines, fees, penalties, out-of-pocket expenses under Applicable Law, fees and expenses of attorneys, accountants and other expenses) suffered or incurred by such Party, resulting from or consequent upon or relating to such breach of representation or warranty, covenant or agreement.

**16. NO AGENCY OR PARTNERSHIP**

This Agreement shall not constitute the appointment of any Party as the legal representative or agent of any other nor will any Party have right or authority, to assume, create or incur any liability or obligation express or implied, against, in the name of, or on behalf of another Party or the Company.

Nothing in this Agreement creates or constitutes a partnership between the Parties to it or any one of them.

Each Party to this Agreement acknowledges that nothing in this Agreement gives it the right or authority to and undertakes not to represent or hold itself out as representing the other Party to this Agreement, whether to bind it contractually or for any other purpose.

**17. COUNTERPARTS**

This Agreement may be executed in two or more counterparts and by Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument. Signatures delivered by facsimile, e-mail or other electronic transmission shall be deemed originals for all purposes.

***SIGNATURE PAGES FOLLOW***

IN WITNESS WHEREOF, the Parties have through their authorised representatives entered into this Agreement on the day, month and year first above written.

For and on behalf of the **Government of Sikkim**

Name:  
Designation:  
Place:  
Date:

For and on behalf of the **Sikkim Power Investment Corporation Limited**

Name:  
Designation:  
Place:  
Date

For and on behalf of **M/s Sikkim Urja Limited**

Name:  
Designation:  
Place:  
Date

For and on behalf of **M/s Asian Genco TUL Pte. Ltd.**

Name:  
Designation:  
Place:  
Date

For and on behalf of **M/s Greenko Energies Private Limited.**

Name:  
Designation:  
Place:  
Date

For and on behalf of **M/s PTC India Limited**

Name:  
Designation:  
Place:  
Date:

For and on behalf of **M/s Fortune Five Hydel Projects Private Limited**

Name:  
Designation:  
Place:  
Date

For and on behalf of **M/s Greenko Rayala Wind Power Private Limited**

Name:  
Designation:  
Place:  
Date

For and on behalf of **Energy Infratech Private Ltd.**

Name:  
Designation:  
Place:  
Date

For and on behalf of **Global Fuels Pte. Ltd.**

Name:  
Designation:  
Place:  
Date:

For and on behalf of **Indus Hydro Power (India) Private Ltd.**

Name:

Designation:

Place:

Date:

For and on behalf of **Guttaseema Wind Energy Company Private Limited**

Name:

Designation:

Place:

Date:

For and on behalf of **Ratnagiri Wind Power Projects Private Limited**

Name:

Designation:

Place:

Date:

For and on behalf of **Vyshali Energy Private Limited**

Name:

Designation:

Place:

Date:

## ANNEXURE 1

### **Matter requiring an Affirmative Vote of the GoS / SPICL Director on the Board and a GoS / SPICL representative in the Board Meeting / Shareholder Meeting**

- Establishing all material operations and capital decisions of the Company, including Annual/quarterly operating budgets and capital expenditure etc.
- All decisions covering acquisitions, disposals of assets and liabilities of the Company of more than Rupees 1 (one) crore.
- Selecting, terminating and setting the compensation of management responsible for implementing Company's policies and procedures.
- Appointment of the independent director on the Board of the Company.
- Election of chairman of the Management Committee and Audit Committee.
- All decisions in respect of declaration of customary or expected dividends.

## **ANNEXURE 2**

### **Articles of Association**

## ARTICLES OF ASSOCIATION

THE COMPANIES ACT, 2013 AND THE COMPANIES ACT 1956, TO THE EXTENT APPLICABLE

## ARTICLES OF ASSOCIATION

### OF

### SIKKIM URJA LIMITED

CIN: U31200DL2005SGC133875

(Company limited by shares)

(Incorporated under The Companies Act, 1956)

The Regulations comprised in these Articles of Association were adopted pursuant to a Special Resolution passed by the Members at a meeting dated [REDACTED] in substitution for, and to the entire exclusion of, the earlier Regulations comprised in the extant Articles of Association of the Company.

### PRELIMINARY

1. These Regulations consist of Regulations 1, 2 and 3 (Preliminary), Regulation 4 (Definitions and Interpretation) and two chapters, Chapter - A and Chapter - B. The provisions of Chapter - A shall apply to all matters to which they pertain, to the extent, and only in so far as they are not inconsistent with the special provisions of Chapter - B. The provisions of Chapter - B shall govern the rights and obligations *inter se* the Shareholders and the Company. As long as Chapter - B remains a part of these Regulations, its provisions shall prevail over the provisions of Chapter - A to the maximum extent permitted under the Act and under Applicable Law, in the event of any conflict or inconsistency.
2. The Regulations contained in the Table - F in Schedule -I of the Act shall not apply to the Company, except in so far as the same are repeated, contained or expressly made applicable in these Regulations or by the Act.
3. The Regulations for the management of the Company and for observance of the Members thereof and their representatives shall, subject to any exercise of statutory powers of the Company with reference to the repeal or alteration of or modification of or additions to its Regulations by Special Resolution/s and registration of the same with the Registrar as prescribed or permitted or required by Section 14 of the Companies Act, 2013, be such as are contained in these Regulations. These Regulations shall be binding on the Company and its Members.

### DEFINITIONS AND INTERPRETATION

4. (i) In the interpretation of these Regulations, the following words and expressions shall have the following meanings unless repugnant to the subject or context:



- (a) “**Act**” shall mean the (Indian) Companies Act, 2013, and Rules framed thereunder, including any statutory modification or re-enactment thereof for the time being in force and the term shall be deemed to refer to the applicable section thereof which is relatable to the relevant Regulation in which the said term appears in these Regulations and any previous company law, so far as may be applicable, including Rules, and such sections of the Companies Act, 1956 as are in force for the time being, as the context may require;
- (b) “**Affiliate**” means in relation a Party any other person that, either directly or indirectly through one or more intermediate persons, controls, is controlled by or is under common control with such Party. For purposes of this definition, "control" includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;
- (c) “**Annual General Meeting**” means the annual general meeting of the Members held as such, in accordance with the provisions of the Act;
- (d) “**AGTPL**” means Asian Genco TUL Pte. Ltd., a limited liability company incorporated under the laws of Singapore with company registration no. 201706874R and having its registered office at 100 Cecil Street #15-02, The Globe, Singapore 069532 (hereinafter referred to as “**AGTPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
- (e) “**Applicable Law**” means all laws, statutes, rules, regulations, orders, guidelines, policies, notices, directions, administrative practices, or other requirements of any government authority binding on or affecting the Parties or the Transaction;
- (f) “**Associate**” means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

Explanation.—For the purposes of this clause, "significant influence" means control of at least twenty per cent of total share capital, or of business decisions under an agreement;

- (g) “**Articles**” shall mean the articles of association of the Company which are in effect as of the date hereof;
- (h) “**Board**” means the Board of Directors of the Company ;

- (i) **“Business Day”** means a day (excluding Saturdays and Sundays) on which banks generally are open in India for the transaction of normal banking business;
- (j) **“Control”** shall include the right to appoint majority of the Directors or to control the management or policy decisions exercisable by a Person or Persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.
- (k) **“Company”** or **“SUL”** means Sikkim Urja Limited, a public limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U31200DL2005SGC133875 and having its registered office at B2/1A Safdarjung Enclave, Africa Avenue, New Delhi-110029 (hereinafter referred to as **“SUL or Company”**), which expression shall, unless repugnant to or excluded by the context or subject thereof, mean and include its successors, administrators and permitted assigns);
- (l) **“COD”** or **“Commercial Operation Date”** shall have the meaning given to such term in the Implementation Agreement;
- (m) **“Director”** means a director appointed to the Board of the Company;
- (n) **“EIPL”** means Energy Infratech Private Limited, a private limited company incorporated under Indian Companies Act, 1956 under corporate identity number U40101DL2004PTC148280 and having its registered office at 14, Factory Road, Block no. A, Ground floor, Adjoining Vardhman Mahavir Medical College, Safdarjung, New Delhi- 110029 (hereinafter referred to as **“EIPL”**), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, administrators and permitted assigns);
- (o) **“Extraordinary General Meeting”** means an extraordinary general meeting of the Members of the Company;
- (p) **“Financial Year”** shall have the meaning assigned thereto under Section 2 (41) of the Companies Act, 2013.
- (q) **“Fully Diluted Basis”** means the calculation to be made assuming that all outstanding convertible securities that are convertible, exercisable or exchangeable into equity shares, have been so converted, exercised or exchanged, all outstanding partly paid up shares have been fully paid up by the Shareholders and all outstanding Share application monies have been returned to the applicants or Shares have been issued against such Share application monies and all rights to purchase Shares under the SPA and other Agreement have been exercised by the respective parties;

- (r) **“FFHPPL”** means Fortune Five Hydel Projects Private Limited, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40101KA2005PTC036626 and having its registered office at No. 66, 4th A cross, 3rd Main, Dollars Colony, RMV 2nd stage, Bangalore, Karnataka - 560094 (hereinafter referred to as **“FFHPPL”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
- (s) **“General Meeting”** means either an Extraordinary General Meeting or an Annual General Meeting of the Members of the Company;
- (t) **“GEPL”** means Greenko Energies Private Limited, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40109TG2000FTC034990 and having its registered office at Plot No.1071, Road No.44 Jubilee Hills, Hyderabad, Telangana - 500033 (hereinafter referred to as **“GEPL”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
- (u) **“Greenko Consortium”** shall mean a consortium including of the Greenko group entities, viz. AGTPL, FFHPPL, GEPL, GRWPPL, GWECPL, RWPPPL, and VEPL;
- (v) **“GRWPPL”** means Greenko Rayala Wind Power Private Limited, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40108TG2010PTC071897 and having its registered office at First Floor, Block D, Plot No.13, SY. No. 64 Part Hitech City Layout, Madhapur Village, Hyderabad, Rangareddi Telangana - 500081 (hereinafter referred to as **“GRWPPL”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
- (w) **“GFPL”** means Global Fuels Pte Ltd., a limited liability company incorporated under Singapore Laws with company registration number 200719223R and having its registered office at 50, Raffles Place, #32-01, Singapore Land Tower- 048623 (hereinafter referred to as **“GFPL”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, administrators and permitted assigns);
- (x) **“GoS”** means the Government of Sikkim, in India, and / or its Associates / nominees/ Departments;
- (y) **“GoS Company”** shall mean a company over which GoS has Control;

- (z) **“Government Company”** shall have the meaning assigned thereto under Section 2(45) of the Companies Act, 2013;
- (aa) **“GWECPL”** means Guttaseema Wind Energy Company Private Limited, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40108TG2008PTC059988 and having its registered office at Ground Floor, Block D, Plot No.13, SY. NO. 64 Part Hitech City Layout, Madhapur Village, Hyderabad Rangareddi, Telangana - 500081 (hereinafter referred to as **“GWECPL”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
- (bb) **“Implementation Agreement”** shall mean the Implementation Agreement between the GoS and the Company dated July 18, 2005 and as amended from time to time;
- (cc) **“IHPPL”** means Indus Hydro Power (India) Private Limited, a private limited company incorporated under Indian Companies Act, 1956 under corporate identity number U40108DL2010PTC069348 and having its registered office at Flat No. 1005, 10<sup>th</sup> Floor, Ambadeep Building, K. G. Marg, New Delhi – 110001 (hereinafter referred to as **“IHPPL”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors, administrators and permitted assigns);
- (dd) **“Key Managerial Personnel”** shall have the meaning assigned thereto under section 2(51) of the Companies Act, 2013;
- (ee) **“Member”** shall have the meaning assigned thereto under Section 2(55) of the Companies Act, 2013;
- (ff) **“Memorandum of Association”** means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act;
- (gg) **“Month”** means a English calendar month;
- (hh) **“Nominee Director”** shall have the meaning assigned thereto under section 149(7) of the Companies Act, 2013;
- (ii) **“Office”** means the registered office for the time being of the Company;
- (jj) **“Ordinary Resolution”** shall have the meaning assigned thereto under Section 114 of the Companies Act, 2013;
- (kk) **“Person”** shall include any person, individual, company, firm, corporation, partnership, limited liability company, government, state

or agency of a state or any undertaking (whether or not having separate legal personality) and irrespective of the jurisdiction in or under the law of which it was incorporated or exists;

- (ll) **“Project”** means the 1200 MW Teesta Stage III Hydro Power Project on a Build, Own, Operate and Transfer Basis, for which GoS and the Company entered into the Implementation Agreement;
- (mm) **“PTC”** means PTC India Limited, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number L40105DL1999PLC099328 and having its registered office at 2<sup>nd</sup> floor, NBCC Tower, 15, Bhikaji Cama Place, New Delhi-110066 (hereinafter referred to as **“PTC”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
- (nn) **“Regulations”** means the regulations contained in these Articles of Association;
- (oo) **“Rules”** means the rules framed under the Act, and as amended from time to time;
- (pp) **“RWPPPL”** means Ratnagiri Wind Power Projects Private Limited, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U40105PN2010PTC139797 and having its registered office at JJ Arcade , final plot no. 480, TPS. No.1 Shaniwar Peth, N.H.4 karad Satara, Maharashtra - 415110 (hereinafter referred to as **“RWPPPL”**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
- (qq) **“Seal”** means the common seal of the Company for the time being;
- (rr) **“Securities”** shall have the meaning assigned thereto under Section 2(81) of the Companies Act, 2013;
- (ss) **“Shares”** shall have the meaning assigned thereto under Section 2(84) of the Companies Act, 2013;
- (tt) **“Shareholders”** means each of GEPL, AGTPL PTC, GoS / SPICL, EIPL, GFPL, IHPPL, FFHPPL, RWPPPL, GRWPPL, GWECPL, VEPL,, and other duly registered holders of equity shares of the Company from time to time;
- (uu) **“SHA”** means the restated shareholders’ agreement entered into between GoS/SPICL, SUL, Greenko Consortium, PTC, EIPL, GFPL & IHPPL dated [REDACTED] and as amended from time to time;

- (vv) “**Share Purchase Agreement**” means the share purchase agreement dated August 06, 2015 entered into between the Shareholders and the Company;
  - (ww) “**Special Resolution**” shall have the meaning assigned thereto under Section 114 of the Act;
  - (xx) “**SPICL**” means Sikkim Power Investment Corporation Limited, a 100% wholly owned public limited liability company of Government of Sikkim, incorporated under the Registration of Companies Act, Sikkim, 1961 under Registration No. 891 and having its registered office at Beside Manan Bhawan, Development Area, Jeevan Theng Marg, Gangtok (Sikkim) - 737101, (hereinafter referred to as “**SPICL**”, which expression shall, unless repugnant to or excluded by the context or subject thereof, mean and include its affiliates, associates, successors, administrators and permitted assigns);
  - (yy) “**TPTL**” means Teestavalley Power Transmission Limited, a subsidiary of the Company and which is a joint venture between the Company and Power Grid Corporation of India Limited, duly incorporated under the Companies Act, 1956 under corporate identity number U40109DL2006SGC151871 and having its registered office at B2/1A Safdarjung Enclave, Africa Avenue, New Delhi-110029, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns;
  - (zz) “**VEPL**” means Vyshali Energy Private Limited, a limited liability company incorporated under the Indian Companies Act, 1956 under corporate identity number U31100KA2008PTC045946 and having its registered office at No.66, 4th A Cross, 3rd Main, Dollars Colony, RMV 2nd Stage Bangalore, Karnataka - 560094 (hereinafter referred to as “**VEPL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its affiliates, associates, successors, administrators and permitted assigns);
  - (aaa) “**Year**” means a calendar year;
  - (bbb) “**2<sup>nd</sup> Cost Overrun**” shall mean 2<sup>nd</sup> cost overrun of the Project with additional cost of Rs. 2801 Crores in the debt : equity ratio of 80:20 resulting in the total Project Cost of Rs. 11, 382 crores; and
  - (ccc) “**3<sup>rd</sup> Cost Overrun**” shall mean 3<sup>rd</sup> cost overrun of the Project with additional cost of Rs. 2583 Crores in the debt : equity ratio of 80:20 resulting in the total Project cost of Rs. 13,965 crores.
- (ii) Unless the context otherwise requires, the words or expressions contained in these Regulations shall bear the same meaning as in the Act or any statutory modifications thereof, in force at the date at which these Regulations become binding on the Company.

- (iii) The provisions of the Companies Act, 1956, which are currently in force, shall cease to have effect from the date on which the corresponding provisions under the Act have been notified in the official gazette, and from such date the corresponding provisions of the Companies Act, 2013, shall be applicable to the Company.
- (iv) In the event any of the provisions of these Regulations are contrary to the provisions of the Act, the provisions of the Act will prevail.
- (v) Words imparting the singular shall include the plural and vice versa, words imparting the masculine gender shall include the feminine gender and words imparting persons shall include bodies corporate and all other persons recognized by law as such.
- (vi) Reference to a particular statute or statutory provisions or subordinate legislation shall be construed as meaning and including references also to any amendment or re-enactment for the time being in force and to all statutory instruments or orders made pursuant to such statutory provisions.
- (vii) Headings are for convenience only and shall not affect the interpretation.
- (viii) References to any agreement or other document shall, unless the context otherwise requires, be deemed to include such agreement or other document as amended or novated from time to time.
- (ix) The words “include”, “includes” and “including” are deemed to be followed by the phrase “without limitation”.
- (x) A Person includes a natural person, a corporate or unincorporated body (whether or not having a separate legal personality).
- (xi) All references to days, months, years and dates in these Regulations shall be reckoned according to the English calendar.

## **CHAPTER- A**

**The provisions of this Chapter- A shall apply to all the matters to which they pertain, to the extent, and only in so far as they are not inconsistent with, the special provisions of Chapter- B (provided herein below). In the event of any conflict or inconsistency between any provision of this Chapter-A and any provision of Chapter- B, the provisions of Chapter- B shall prevail.**

### **PUBLIC COMPANY**

- 5. Except as provided under Chapter – B of these Regulations, the Shares of the Company are freely transferable.

### **SHARE CAPITAL AND VARIATION OF RIGHTS**

- 6. Subject to the provisions of the Act and these Regulations, the Shares in the capital of

the Company shall be under the control of the Directors who may issue, allot or otherwise dispose of the same or any of them to such Persons, in such proportion and on such terms and conditions and either at a premium or at par or at discount and at such time as they may from time to time think fit as per the provisions of the Act.

7. The authorized share capital of the Company is as mentioned in Clause V of the Memorandum of Association of the Company.
8. Subject to the provisions of the Act and these Regulations, the Shares shall be issued pursuant to the receipt of signed application by or on behalf of an applicant for subscription of Shares in the Company.
9. Any application signed by or on behalf of an applicant for subscription of Shares in the Company, followed by an allotment of any Shares therein, shall be an acceptance of Shares within the meaning of these Regulations; and every Person who thus or otherwise accepts any Shares and whose name is on the register shall, for the purposes of these Regulations, be a Member.
10. Subject to the provisions of the Act and other Applicable Laws, the further issue of Shares by the Board or the Company, as the case may be, shall be made to:
  - (i) Persons who, at the date of offer, are holders of equity Shares of the Company, subject to such conditions as may be prescribed under the Act; such offer shall be deemed to include a right exercisable by the Person concerned to renounce the Shares offered to him or any of them in favour of any other Person; or
  - (ii) employees under any scheme of employees' stock option, subject to Special Resolution passed by the Company and subject to such conditions as may be prescribed under the Act; or
  - (iii) any Persons, if it is authorized by a Special Resolution, whether or not those Persons include the Persons referred to in clause (i) or clause (ii) above, either for cash or for a consideration other than cash, if the price of such Shares is determined by the valuation report of a registered valuer, subject to such conditions as may be prescribed under the Act.
11. The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.
12. Subject to and in accordance with the Act and other Applicable Laws, the Company may issue further Shares and other Securities including depository receipts in any manner whatsoever as the Board may determine including by way of a prospectus, or through private placement, or through a rights issue or a bonus issue, or through a preferential offer, or any other permitted manner, subject to such conditions as may be prescribed.
13. The Share capital of the Company shall comprise of the following kinds of Shares in accordance with these Regulations, the Act and other Applicable Laws:
  - (i) Equity share capital with voting rights, or with differential rights as regards



dividend, voting or otherwise in accordance with the Rules.

(ii) Preference Share Capital

14. Subject to the provisions of Section 55 of the Companies Act, 2013, any Preference Shares may, with the sanction of an Ordinary Resolution, be issued on the terms that they are to be redeemed on such terms and in such manner as the Company before the issue of the Preference Shares, may by Special Resolution, determine.
15. (i) If at any time the Share capital is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class) may, subject to the provisions of Section 48 of the Companies Act, 2013 and whether or not the Company is being wound up, be varied with the consent in writing of the holders of 3/4<sup>th</sup> (three-fourth) of the issued Shares of that class, or with the sanction of a Special Resolution passed at a separate meeting of the holders of the Shares of that class.
- (ii) To every such separate meeting, the provisions of these Regulations relating to General Meetings shall *mutatis mutandis* apply, so that the necessary quorum shall be as provided under Chapter B of the AOA.
16. Except as required by law, no Person shall be recognized by the Company as holding any Share upon any trust, and the Company shall not be bound by, or be compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any Share, or any interest in any fractional part of a Share, or (except only as by these Regulations or by law otherwise provided) any other rights in respect of any Share except an absolute right to the entirety thereof in the registered holder.

### COMMISSION

17. (i) The Company may exercise the powers of paying commissions conferred by Section 40(6) of the Companies Act, 2013, provided that the rate percent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by Section 40(6) of the Companies Act, 2013 and Rules made thereunder.
- (ii) The rate or amount of the commission shall not exceed the rate or amount prescribed in Rules made under Section 40(6) of the Companies Act, 2013.
- (iii) The commission may be satisfied by payment in cash or by allotment of fully or partly paid Shares or partly in one way and partly in the other.
- (iv) The Company may also, on any issue of Shares, pay such brokerage as may be lawful.

### SHARE CERTIFICATES

18. The Company may convert its Securities into dematerialized form or issue its

Securities in physical form in accordance with the provisions of the Act and other Applicable Law. Where a Share is held in depository form, the record of the depository is the *prima facie* evidence of the interest of the beneficial owner.

19. The Company may issue such fractional certificates as the Board may approve in respect of any of the Shares of the Company on such terms as the Board thinks fit as to the period within which the fractional certificates are to be converted into Share certificates.
20. If any Share stands in the names of 2 (two) or more Persons, the Person first named in the register of Members shall, as regards receipt of dividends, the service of notices and subject to the provisions of these Regulations, all or any other matter connected with the Company except the issue of Share certificates, voting at meeting and the transfer of the Share, be deemed the sole holder thereof.
21.
  - (i) Every Person whose name is entered as a Member in the register of Members shall be entitled to receive within 2 (two) months after incorporation, in case of subscribers to the Memorandum of Association or after allotment or within 1 (one) month after the application for the registration of transfer or transmission or within such other period as the conditions of issue shall be provided:
    - (a) one certificate for all his Shares without payment of any charges; or
    - (b) several certificates, each for one or more of his Shares, upon payment of such fee as may be determined by the Board in accordance with the Act.
  - (ii) In accordance with the provisions and rules of the Act, every certificate shall be under the Seal of the Company, if any, or signed/ facsimiles by 2 (two) Directors duly authorized by the Board of the Company for the purpose or the committee of the Board if so authorized by the Board; or by a Director and the secretary, wherever the Company has appointed a secretary. Each such certificate shall specify the Shares to which it relates and the amount paid- up thereon.
  - (iii) In respect of any Share or Shares held jointly by several Persons, the Company shall not be bound to issue more than 1(one) certificate, and delivery of a certificate for a Share to 1 (one) of several joint holders shall be sufficient delivery to all such holders.
22.
  - (i) If any Share certificate be decrepit or worn out, defaced, mutilated or torn or if there be no further space on the back for endorsement of transfer, then upon production and surrender thereof to the Company, a new certificate may be issued in lieu thereof, and if any certificate is lost or destroyed then upon proof thereof to the satisfaction of the Company and on execution of such indemnity as the Company deem adequate, a new certificate in lieu thereof shall be given. Certificates shall be issued under this Regulation upon payment of such fee as may be determined by the Board in accordance with the Act.

- (ii) The certificate of any Share or Shares shall not be issued in exchange for those which are sub-divided or consolidated, unless the certificate in lieu of which it is issued is surrendered to the Company. Certificates shall be issued under this Regulation upon payment of such fee as may be determined by the Board in accordance with the Act.
- 23. Where a new Share certificate has been issued in pursuance of Regulation 22 above, the particulars of every Share certificate issued shall be entered in a register of renewed and duplicate share certificates, maintained in the form and manner prescribed in the Companies (Share Capital and Debentures) Rules, 2014, against the name(s) of the Person(s) to whom the certificate is issued, the number and date of issue of the Share certificate in lieu of which the new certificate is issued, and the necessary changes indicated in the register by suitable cross-references in the "Remarks" column.
- 24. The provisions of Regulations 21, 22 and 23 above shall *mutatis mutandis* apply to debentures of the Company.
- 25. The Company shall issue, re-issue and issue duplicate Share certificates in accordance with Section 46 of the Companies Act, 2013 and in the form and manner prescribed under the Companies (Share Capital and Debentures) Rules, 2014. Duplicate certificate shall be issued in accordance with the provisions of the Act, within 3 (three) months, from the date of submission of complete documents with the Company.

#### **LIEN**

- 26.
  - (i) The Company shall have a first and paramount lien upon every share, except shares held by GoS/SPICL or its nominee (not being a fully paid up share), for all money (whether presently payable or not) called or payable at a fixed time in respect of that share. Unless otherwise agreed the registration of a transfer of a share shall operate as a waiver of the Company's lien if any, on such shares. The Board of Directors may at any time declare any shares to be wholly or in part to be exempt from the provisions of this article.
  - (ii) The Company's lien, if any, on a Share shall extend to all dividends payable and bonuses declared from time to time in respect of such Share.
- 27. The Company may sell, in such manner as the Board thinks fit, any Share on which the Company has a lien, provided that no sale shall be made:
  - (i) unless a sum in respect of which the lien exists is presently payable; or
  - (ii) until the expiration of 30 (thirty) days after a notice in writing demanding payment of such part of the amount in respect of which the lien exists as is presently payable, have been given to the registered holder for the time being of the Share or the Person entitled thereto by reason of his death or insolvency and stating that amount so demanded if not paid within the period specified at the Registered Office of the Company, the said shares shall be sold.
- 28.
  - (i) To give effect to any such sale, the Board may authorize some Person to

transfer the Shares sold to the purchaser thereof.

- (ii) The purchaser shall be registered as the holder of the Shares comprised in any such transfer.
  - (iii) The purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the Shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.
- 29.**
- (i) The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable.
  - (ii) The residue, if any, shall, subject to a like lien for sums not presently payable as existed upon the Shares before the sale, be paid to the Person entitled to the Shares at the date of the sale.

### **CALL ON SHARES**

- 30.**
- (i) The Board may, from time to time, make calls upon the Members in respect of any monies unpaid on their Shares (whether on account of the nominal value of the Shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times.
  - (ii) Each Member shall, subject to receiving of at least thirty days notice specifying the time or times and place of payment, of the call money pay to the Company, at the time or times and place so specified, the amount called on his Shares.
  - (iii) A call may be revoked or postponed at the discretion of the Board.
- 31.** A call shall be deemed to have been made at the time when the resolution of the Board authorizing the call was passed, and may be required to be paid by instalments.
- 32.** The joint holders of a Share shall be jointly and severally liable to pay all calls in respect thereof.
- 33.**
- (i) If a sum called in respect of a Share is not paid before or on the day appointed for payment thereof, the Person from whom the sum is due, shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at such rate of interest as the Board may determine in accordance with the Act.
  - (ii) The Board shall be at liberty to waive payment of any such interest wholly or in part.
- 34.**
- (i) Any sum which by the terms of issue of a Share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the Share or by

way of premium, shall, for the purposes of these Regulations, be deemed to be a call duly made and payable on the date on which by the terms of issue such sum becomes payable.

- (ii) In case of non-payment of such sum, all the relevant provisions of these Regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

**35. The Board:**

- (i) may, if it thinks fit, receive from any Member willing to advance the same, all or any part of the monies uncalled and unpaid upon any Shares held by him; and
- (ii) upon all or any of the monies so advanced, may (until the same would, but for such advance, become presently payable) pay interest, as may be agreed upon between the Board and the Member paying the sum in advance. The monies so paid in advance shall not confer a right to dividend or to participate in profits.

**36.** Neither the receipt by the Company of a portion of any money which shall, from time to time, be due from any Member to the Company in respect of his/her shares, either by way of principal or interest, nor any indulgence granted by the Company in respect of the payment of any such money, shall, preclude the Company from thereafter proceeding to enforce a forfeiture of such Shares as hereinafter provided.

**37.** Where any calls for further Share capital are made on the Shares of a class, such calls shall be made on a uniform basis on all Shares falling under that class. For the purposes of this Regulation, Shares of the same nominal value on which different amounts have been paid-up shall not be deemed to fall under the same class.

**38.** Regulations 30 to 37 above, as regard calls shall *mutatis mutandis* apply to other Securities including debentures of the Company.

## **TRANSFER OF SHARES**

- 39.** (i) The instrument of transfer of any Share in the Company shall be executed by or behalf of both transferor and transferee, in accordance with the Act and in the prescribed form.
- (ii) The transferor shall be deemed to remain a holder of the Share until the name of the transferee is entered in the register of Members in respect thereof.
- (iii) In case of the Securities held in dematerialized form, the provisions of the Depositories Act, 1996, and the rules thereunder shall apply.

**40.** The instrument of transfer, apart from the cases where the securities are held in dematerialized form, shall be in writing and all the provisions of Section 56 of the

Companies Act, 2013 and of any modification thereof for the time being shall be complied with in respect of all transfers of Shares and registration thereof.

- 41.** The Board may, subject to the right of appeal conferred by Section 58 of the Companies Act, 2013, decline to register:
- (i) the Transfer of a Share, not being a fully paid Share, to a person of whom they do not approve; or
  - (ii) any transfer of the share on which the Company has a lien, provided that the registration of transfer shall not be refused on the ground of transferor being either alone or jointly with any person or persons indebted to the Company on any account except a lien;
  - (iii) Notice of refusal to transfer shares to the transferor or transferee shall be sent within 30 (thirty) days.
- 42.** In case of Shares held in physical form, the Board may also decline to recognize any instrument of transfer unless:
- (i) the instrument of transfer is in the form as prescribed in the Rules made under Section 56(1) of the Companies Act, 2013;
  - (ii) the instrument of transfer is accompanied by the certificate of the Shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer; and
  - (iii) the instrument of transfer is in respect of only 1 (one) class of Shares.
- 43.** Upon listing and in accordance with Section 91 of the Companies Act, 2013 and Rules made thereunder, the registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine.

### **TRANSMISSION OF SHARES**

- 44.** (i) On the death of a Member, the survivor or survivors where the Member was a joint holder, and his nominee or nominees or legal representatives where he was a sole holder, shall be the only persons recognized by the Company as having any title to his interest in the Shares.
- (ii) Nothing in clause (i) above shall release the estate of a deceased joint holder from any liability in respect of any Share which had been jointly held by him with other Persons.
- 45.** (i) Any Person becoming entitled to a Share in consequence of the death or insolvency of a Member may, upon such evidence being produced as may from time to time properly be required by the Board and subject as hereinafter provided, elect, either:

- (a) to be registered himself as holder of the Share; or
    - (b) to make such transfer of the Share, as the deceased or insolvent Member could have made.
  - (ii) The Board shall, in either case, have the same right to decline or suspend registration as it would have had, if the deceased or insolvent Member had transferred the Share before his death or insolvency.
- 46.
- (i) If the Person so becoming entitled shall elect to be registered as holder of the Shares himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects.
  - (ii) If the Person aforesaid shall elect to Transfer the Share, he shall testify his election by executing a Transfer of the Share.
  - (iii) All the limitations, restrictions and provisions of these Regulations relating to the right to Transfer and the registration of transfers of Shares shall be applicable to any such notice or Transfer as aforesaid as if the death or insolvency of the Member had not occurred and the notice or Transfer were a Transfer signed by that Member.
47. A Person becoming entitled to a Share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the Share, except that he shall not, before being registered as a Member in respect of the Share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.

Provided that the Board may, at any time, give notice requiring any such Person to elect either to be registered himself or to Transfer the Share, and if the notice is not complied with within 90 (ninety) days, the Board may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the Share, until the requirements of the notice have been complied with.

#### **FORFEITURE OF SHARES**

THE SHARES HELD BY GOS / SPICL OR THE RIGHT OF GOS / SPICL TO HOLD THE SHARES CANNOT BE FORFEITED BY THE COMPANY. THE CLAUSES 48 TO 53 OF THESE REGULATIONS SHALL NOT BE APPLICABLE TO SHARES HELD BY GOS / SPICL OR THE RIGHT OF GOS / SPICL TO HOLD THE SHARES.

48. If a Member, fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued and all expenses that may have been incurred by the Company by reason of such non-payment.
49. The notice aforesaid shall:

- (i) name a further day (not being earlier than the expiry of 30 (thirty) days from the date of service of the notice) on or before which the payment required by the notice is to be made; and
  - (ii) state that, in the event of non-payment on or before the day so named, the Shares in respect of which the call was made shall be liable to be forfeited.
- 50.** If the requirements of any such notice as aforesaid are not complied with, any Share in respect of which the notice has been given may, at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited Shares and not actually paid before the date of forfeiture, which shall be the date on which the resolution of the Board is passed forfeiting the Shares.
- 51.**
  - (i) A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit.
  - (ii) At any time before a sale or disposal as aforesaid, the Board may cancel the forfeiture on such terms as it thinks fit.
  - (iii)
    - (a) A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares.
    - (b) The liability of such Person shall cease if and when the Company shall have received payment in full of all such monies in respect of the Shares.
- 52.**
  - (i) A duly verified declaration in writing that the declarant is a Director, the manager or the secretary, of the Company, and that a Share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all Persons claiming to be entitled to the Share;
  - (ii) The Company may receive the consideration, if any, given for the Share on any sale or disposal thereof and may execute a transfer of the Share in favour of the Person to whom the Share is sold or disposed of;
  - (iii) The transferee shall thereupon be registered as the holder of the Share; and
  - (iv) The transferee shall not be bound to see to the application of the purchase money, if any, nor shall his title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the Share.
- 53.** The provisions of these Regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a Share, becomes payable at a fixed time, whether on account of the nominal value of the Share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.



## **ALTERATION OF CAPITAL**

- 54.** The Company may, from time to time, by Ordinary Resolution increase the Share capital by such sum, to be divided into Shares of such amount, as may be specified in the resolution.
- 55.** The Company may, subject to provisions of Section 61 of the Companies Act, 2013, by an Ordinary Resolution:
- (i) consolidate and divide all or any of its Share capital into Shares of larger amount than its existing Shares;
  - (ii) convert all or any of its fully paid-up Shares into stock, and re-convert that stock into fully paid-up Shares of any denomination;
  - (iii) sub-divide its existing Shares or any of them into Shares of smaller amount than is fixed by the Memorandum of Association, so however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as it was in the case of the Share from which the reduced Share is derived;
  - (iv) cancel any Shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its capital by the amount of the Shares so cancelled. A cancellation of Shares in pursuance of this Regulation shall not be deemed to be a reduction of capital within the meaning of the Act.
- 56.** The Company may, by a Special Resolution, reduce in any manner and with, and subject to, any incident authorized and consent required by law:
- (i) its share capital;
  - (ii) any capital redemption reserve account; or
  - (iii) any Share premium account.
- 57.** The Company may amalgamate or cause itself to be amalgamated with any other person, or body corporate, subject to the provisions of Section 230 to 232 of the Companies Act, 2013.

## **CONVERSION OF SHARES INTO STOCK**

- 58.** Where Shares are converted into stock:
- (i) the holders of stock may transfer the same or any part thereof in the same manner as and subject to the same regulation under which, the Shares from which the stock arose might before the conversion have been transferred, or as near thereto as circumstances admit:

Provided that the Board may, from time to time, fix the minimum amount of stock transferable, so however that such minimum shall not exceed the nominal

amount of the Shares from which the stock arose.

- (ii) the holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the Company and other matters, as if they held the Shares from which the stock arose; but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by an amount of the stock which would not, if existing in Shares, have conferred that privilege or advantage.
- (iii) Such of the regulation of the Company (other than those relating to Share warrants), as are applicable to paid-up Shares shall apply to stock and the words “Share” and “Shareholder” in those regulations shall include “stock” and “stock holder” respectively.

### **SHARE WARRANTS**

- 59.** The Company may issue Share warrants as per the provisions of the Act.

### **CAPITALIZATION OF PROFITS**

- 60.** (i) The Company in General Meeting may, upon the recommendation of the Board, resolve:
- (a) that it is desirable to capitalize any part of the amount for the time being standing to the credit of any of the Company’s reserve accounts or to the credit of the profit and loss account, or otherwise available for distribution; and
  - (b) that such sum be accordingly set free for distribution in the manner specified in clause (ii) below amongst the Members who would have been entitled thereto, if distributed by way of dividend and in the same proportions.
- (ii) The sum aforesaid shall not be paid in cash but shall be applied, subject to the provision contain in clause (iii) below, either in or towards:
- (a) paying up any amounts for the time being unpaid on any Shares held by such Members respectively;
  - (b) paying up in full, unissued Shares of the Company to be allotted and distributed, credited as fully paid-up, to and amongst such Members in the proportions aforesaid; or
  - (c) partly in the way specified in sub-clause (a) and partly in that specified in sub clause (b).
- (iii) A Securities premium account and a capital redemption reserve (account) may, for the purposes of the Regulation, be applied in the paying up of unissued Shares to be issued to Members of the Company as fully paid bonus Shares.

- (iv) The Board shall give effect to the resolution passed by the Company in pursuance of this Regulation.
- 61. (i) Whenever such a resolution as aforesaid shall have been passed, the Board shall:
  - (a) make all appropriations and applications of the undivided profits resolved to be capitalized thereby, and all allotments and issues of fully paid Shares, if any; and
  - (b) generally do all acts and things required to give effect thereto.
- (ii) The Board shall have full power:
  - (a) to make such provision, by the issue of fractional certificates or by payment in cash or otherwise as it thinks fit, for the case of Shares becoming distributable in fractions; and
  - (b) to authorize any Person to enter, on behalf of all the Members entitled thereto, into an agreement with the Company providing for the allotment to them respectively, credited as fully paid-up, of any further Shares to which they may be entitled upon such capitalization, or as the case may require for the payment up by the Company on their behalf, by the application thereto of their respective proportion of the profits resolved to be capitalized, of the amounts or any part of the amounts remaining unpaid on their existing Shares.
- (iii) Any agreement made under such authority shall be effective and binding on all such Members.

### **BUY-BACK OF SHARES**

- 62. Notwithstanding anything contained in these Regulations but subject to the provisions of Sections 68 to 70 of the Companies Act, 2013, and any other applicable provision of the Act or any other law for the time being in force, the Company may purchase its own Shares or other specified Securities.

### **GENERAL MEETINGS AND PROCEEDINGS AT GENERAL MEETINGS**

- 63. All General Meetings other than Annual General Meeting shall be called Extraordinary General Meeting.
- 64. (i) The Board may, whenever it thinks fit, call an Extraordinary General Meeting.
- (ii) If at any time Directors capable of acting who are sufficient in number to form a quorum are not within India, any Director or any 2 (two) Members of the Company may call an Extraordinary General Meeting in the same manner, as nearly as possible, as that in which such a meeting may be called by the Board.

65. Subject to the provisions of the Act, the Company shall, in addition to the Extraordinary General Meetings, hold a General Meeting called an Annual General Meeting, in each calendar year and within a period of 6 (six) Months from the date of closing of each financial year of the Company, and not extending beyond 15 (fifteen) Months from the last Annual General Meeting, in accordance with the provisions of the Act. Meetings of the Members shall be held at the Registered Office of the Company or at some other place within the city, town or village in which the registered office of the company is situated, in accordance with the provisions of the Act.
66. The Board may, whenever it deems fit, call an Extraordinary General Meeting in accordance with the provisions of the Regulations, and it shall, on the requisition of specified number of Members, call an Extraordinary General Meeting in accordance with the provisions of the Act.
67. The notice for a General Meeting of the Shareholders of the Company may be given to the Shareholders at least 21 (twenty one) clear days prior to the date of the meeting, together with the agenda and all necessary information in accordance with Sections 101 and 102 of the Companies Act, 2013. However, the aforesaid period may be shortened by consent in writing or by electronic mode by not less than 95% (ninety five per cent.) of the Members entitled to vote at such meeting.
68. The notice for the General Meeting may be sent electronically at the email address of the Members available in the records of the Company.
69. Every notice convening a General Meeting of the Company shall specify the place, date, day and hour of the meeting and shall contain a statement of the business to be transacted at such meeting, in accordance with the provisions of the Act. Where any business to be transacted at general meeting is 'special business' under Section 102 of the Act, there shall be annexed to the notice a statement complying with the provisions of the Act.
70. Voting at General Meetings and the adoption of any resolution of the Shareholders shall be governed by the provisions of the Act.
71. No General Meeting, annual or extraordinary, shall be competent to enter upon, discuss or transact any business which has not been stated in the notice by which it was convened or called.
72. (i) No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- (ii) Save as provided herein, the quorum for the General Meetings shall be as provided in Section 103 of the Companies Act, 2013.
73. The chairman, if any, of the Board shall preside as chairman at every General Meeting of the Company. If there is no such chairman or if he is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairman of the meeting, the Directors present shall elect one of their Members to be the chairman of the meeting.

74. If at any meeting no Director is willing to act as chairman or if no Director is present within 15 (fifteen) minutes after the time appointed for holding the meeting, the Members present shall choose one of their Members to be chairman of the meeting.
75. No business shall be discussed at any General Meeting except the election of a chairman, whilst the chair is vacant.
76. Subject to provisions of the Act, the Board may fix in advance a date as record date for the determination of the Members entitled to receive notice of a General Meeting. The Company shall give a notice to the Members, auditor or auditors, directors of the Company and other security holders as applicable, in accordance with the provisions of the Act.
77. The Company shall cause the minutes of each General Meeting to be prepared and signed in the manner prescribed under the Act and the Rules. Such minutes shall be kept within 30 (thirty) days of the conclusion of the General Meeting in books kept for that purpose with their pages consecutively numbered.

#### **ADJOURNMENT OF MEETING**

78. (i) The chairman may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- (ii) No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
79. When a meeting is adjourned for 30 (thirty) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
80. In the event a quorum as required herein is not present within half an hour of the appointed time, then subject to the provisions of Section 103 of the Companies Act, 2013, the General Meeting of the Shareholders shall be adjourned to the same day, same venue and same time in the following week or if such day is a holiday, to the next Business Day thereafter.

#### **VOTING RIGHTS**

81. Subject to any rights or restrictions for the time being attached to any class or classes of Shares:
- (i) on a show of hands, every Member present in person shall have 1 (one) vote; and
- (ii) on a poll, the voting rights of Members shall be in proportion to his share in the paid-up equity share capital of the Company as per Section 47 and other applicable provisions of the Act.

- 82.** Every Member of the Company and holding any Preference Share capital therein shall, in respect of such capital, have a right to vote only on resolutions placed before the Company which directly affect the rights attached to his Preference Shares and, any resolution for the winding up of the Company or for the repayment or reduction of its equity or Preference Share capital and his voting right on a poll shall be in proportion to his Share in the paid-up Preference Share capital of the Company:

Provided that the proportion of the voting rights of equity Shareholders to the voting rights of the preference Shareholders shall be in the same proportion as the paid-up capital in respect of the equity Shares bears to the paid-up capital in respect of the Preference Shares:

Provided further that where the dividend in respect of a class of Preference Shares has not been paid for a period of 2(two) years or more, such class of preference shareholders shall have a right to vote on all the resolutions placed before the Company.

- 83.** In the case of joint holders, the vote of the senior who tenders a vote, whether in person or Proxy, shall be accepted to the exclusion of the votes of the other joint holders. For this purpose, seniority shall be determined by the order in which the names stand in the register of Members.
- 84.** A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by Proxy, provided that such evidence as the Board may require of the authority of the person claiming to vote shall have been deposited at the office not less than 24 (twenty four) hours before the time of holding the meeting or adjourned meeting at which such person claims to vote on poll.
- 85.** No Member shall be entitled to vote at any General Meeting unless all calls or other sums presently payable by him in respect of Shares in the Company have been paid.
- 86.** (i) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes.
- (ii) Any such objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- 87.** In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 88.** Any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll.

## **PROXY**

89. Subject to the provisions of Section 105 of the Companies Act, 2013 and the provisions of these Regulations, any Member of the Company entitled to attend and vote at General Meeting of the Company shall be entitled to appoint another person or persons whether a Member or not, as his Proxy to attend and vote instead of himself and the Proxy so appointed shall have no right to speak at the meeting, provided however the instrument appointing Proxy shall be deemed to confer authority to demand or join in demanding poll.
90. A person may be appointed as a Proxy though he is not a Member of the Company and every notice convening a General Meeting of the Company shall state this and that a Member entitled to attend and vote at the General Meeting is entitled to appoint a Proxy to attend and vote instead of himself.
91. The instrument appointing a Proxy and the power of attorney or other authority, if any, under which it is signed or a notarized copy of that power or authority, shall be deposited at the Office of the Company not less than 48 (forty eight) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or in the case of a poll, not less than 24 (twenty four) hours before the time appointed for the taking of the poll; and in default the instrument of Proxy shall not be treated as valid.
92. An instrument appointing a Proxy shall be in the form as prescribed in the Rules made under Section 105 of the Companies Act, 2013.
93. A vote given in accordance with the terms of an instrument of Proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the Proxy or the authority under which the Proxy was executed, or the transfer of the Shares in respect of which the Proxy is given.

Provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the Company at its Office before the commencement of the meeting or adjourned meeting at which the Proxy is used.

94. Every Member entitled to vote at a meeting of the Company or on any resolution to be moved thereat shall be entitled during the period beginning 24 (twenty-four) hours before the time fixed for the commencement of the meeting and ending with the conclusion of the meeting, to inspect the Proxies lodged, at any time during the business hours of the Company, provided not less than 3 (three) days notice in writing of the intention so to inspect is given to the Company.
95. Where a Company or a body corporate is a Member (hereinafter called "Member Company") of the Company, a Person, duly appointed by resolution in accordance with the provisions of the Act to represent such Member Company at a General Meeting of the Company, shall not, by reason of such appointment, be deemed to be a Proxy, and the lodging with the Company at the Office or production at the General Meeting of a copy of such resolution duly signed by one Director or the secretary or any other authorized representative of such Member Company and certified by him as being a true copy of the resolution shall be accepted by the Company as sufficient evidence of the validity of his appointment. Such a Person shall be entitled to exercise the same rights and powers, including the right to vote by Proxy on behalf

of the Member Company which he represents, as that Member Company could exercise if it were an individual Member.

96. Where there are joint registered holders of any Share, any one of such Persons may vote at any General Meeting either personally or by Proxy in respect of such Share as if he were solely entitled thereto; and if more than one of such joint-holders be present at any General Meeting either personally or by Proxy, then one of such Persons so present whose name stands first on the register in respect of such Members shall be entitled to vote at the General Meeting. Several executors or administrators of a deceased Member in whose name any Share is registered shall for the purpose of this Regulation be deemed joint-holders thereof.
97. No Member shall be entitled to exercise any voting rights either personally or by Proxy at any General Meeting of the Company in respect of any Shares registered in his name on which any calls or other sums presently payable by him have not been paid or in regard to which the Company has exercised any right of lien.

### **BOARD OF DIRECTORS**

98. The number of Directors of the Company shall not be less than 3 (three).
99. The following were the first Directors of the Company at the time of incorporation:
- (i) Mulakala Surya Prakasa Rao;
  - (ii) Dr. Chunchu Raghuvera Prasad; and
  - (iii) Hashu Pessumal Bhagat
100. Subject to the provisions of the Act and the Rules, each Director may be paid such sitting fees for each meeting of the Board or committee thereof attended by him such amount as may be prescribed under the Act and the Rules.
101. (i) The remuneration of the Directors shall, in so far as it consists of a Monthly payment, be deemed to accrue from day to day.
- (ii) In addition to the remuneration payable to them in pursuance of the Act, the Directors may be paid all reasonable travelling, hotel and other expenses properly incurred by them;
- (a) in attending and returning from meetings of the Board or any committee thereof or General Meetings of the Company, or
  - (b) in connection with the business of the Company.
102. The Directors may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profit of the Company or partly by one way and partly by the other, in such manner as the Board may, from time to time, determine in accordance with the provisions of the Act.



- 103.** If any Director, willing, shall be called upon to perform extra service or to make any special exertion in going or residing away from his place of business for any of the purposes of the Company or in giving special attention to the business of the Company or as a member of a committee of the Board, then the Board may reimburse the expenses incurred thereon and /or remunerate the Director so doing either by a fixed sum or by a percentage of profits or otherwise and such remuneration may be either in addition to or in substitution for any other remuneration to which he may be entitled.
- 104.** All cheques, promissory notes, drafts, hundis, bill of exchanges and other negotiable instruments and all receipts for monies paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be by such Person and in such manner as the Board shall from time to time by resolution determine.
- 105.** Every Director present at any meeting of the Board or of a committee thereof shall sign the attendance register to be kept for that purpose.
- 106.** (i) Subject to the provisions of Section 149 of the Companies Act, 2013, the Board shall have power at any time, and from time to time, to appoint a person as an additional Director, provided the number of the Directors and additional Directors together shall not at any time exceed the maximum strength fixed for the Board by these Regulations.
- (ii) Such Person shall hold office only up to the date of the next Annual General Meeting of the Company but shall be eligible for appointment by the Company as a Director at that meeting subject to the provisions of the Act.
- 107.** At every Annual General Meeting of the Company, 1/3<sup>rd</sup> (one-third) of such of the Directors for the time being as are liable to retire by rotation, or if their number is not 3 (three) or a multiple of 3 (three), then the number nearest to 1/3<sup>rd</sup> (one-third) shall retire from office in accordance with the provisions of Section 152 of the Companies Act, 2013.
- 108.** The Directors shall not be required to hold any qualification shares in the Company.
- 109.** The Company shall be entitled to agree with any financial institution or the central government or a state government that it shall have the right to appoint its nominee on the Board of the Company upon such terms and conditions as the Board of the Company may deem fit. Nominee Directors shall be entitled to hold office until requested to retire by the financial institution or by the central or state government who may have appointed them. As and whenever a Nominee Director vacates office whether upon request as aforesaid or by death, resignation or otherwise, the financial institution or the central or the state government which appointed such Nominee Director may appoint another Nominee Director in his place.
- 110.** Every nomination, appointment or removal of a Nominee Director shall be in writing

and accordance with the rules and regulations of the financial institution or the central or the state government. A Nominee Director shall be entitled to the same rights and privileges and shall be subject to same obligations as any other Director of the Company.

- 111.** Subject to the provisions of Section 161 of the Companies Act, 2013, the Board shall have power to appoint an alternate director to act for a Director during his absence for a period of not less than 3 (three) Months from India.
- 112.** Subject to applicable provisions of the Act, the office of a director shall become vacant:
- (i) on the happening of any of the events provided for in Section 167 of the Companies Act, 2013;
  - (ii) in case he resigns from his office by giving a notice in writing to the Company and accepted by the Board, in terms of Section 168 of the Companies Act, 2013;
  - (iii) in case he becomes a Director of more than 20 (twenty) companies at a time, in terms of Section 165 of the Companies Act, 2013;
  - (iv) in case of an alternate director, on return of the original Director to India, in terms of Section 161 of the Companies Act, 2013;
  - (v) Or any other matter as may be prescribed by the government.
- 113.** The Board may pay all expenses incurred in setting up, promoting and registering the Company.
- 114.** The Directors may enter into contracts or arrangements on behalf of the Company subject to the necessary disclosures required by the Act, being made wherever any Director is in any way, whether directly or indirectly concerned or interested in the contract or arrangement. Interested Directors shall not vote in the meeting of the Board or the meeting of the Shareholders' to approve such contracts or arrangements.

### **PROCEEDINGS OF THE BOARD**

- 115.** (i) The Board may meet for the conduct of business, adjourn and otherwise regulate its meetings, as it thinks fit.
- (ii) A director may, and the manager or company secretary on the requisition of a director shall, at any time, summon a meeting of the Board.
- 116.** In accordance with the provisions of the Act, the Company shall hold at least 4 (four) Meetings of its Board in each Calendar Year with a maximum interval of 120 (one hundred and twenty days) between any two consecutive Meetings.

- 117.** Subject to compliance of section 174 of the Companies Act, 2013, the quorum for the meeting of the Board shall be  $\frac{1}{3}$ <sup>rd</sup> (one-third) of its total strength (any fraction contained in that one-third being rounded off as one) or 2 (two) Directors whichever is higher, and the participation of the Directors by video conferencing or by other audio visual means shall also be counted for the purposes of quorum under this Regulation, subject to compliance with the requirements of the Act and except for the items which require physical meeting under the Act.
- 118.** Subject to the provisions of Section 173 of the Companies Act, 2013, a meeting of the Board may be held either in person or through video conferencing or other audio visual means, which are capable of recording and recognizing the participation of the Directors and of recording and storing the proceedings of such meetings along with date and time.
- 119.** (i) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.
- (ii) In case of an equality of votes, the chairman of the Board, if any, shall have a second or casting vote.
- 120.** At least 7 (seven) days notice in writing of a meeting of Directors must be given to all Directors entitled to receive notice accompanied by:
- (i) an agenda specifying in reasonable detail the matters to be raised at the meeting; and
- (ii) copies of any papers to be discussed at the meeting.
- 121.** To transact urgent business, the Notice, Agenda and Notes on Agenda may be given at shorter period of time than stated above, if at least one Independent Director, if any, shall be present at such Meeting. If no Independent Director is present, decisions taken at such a Meeting shall be circulated to all the Directors and shall be final only on ratification thereof by at least one Independent Director, if any. In case the company does not have an Independent Director, the decisions shall be final only on ratification thereof by a majority of the Directors of the company, unless such decisions were approved at the Meeting itself by a majority of Directors of the company. Subject to the provisions of the Act, the Board may transact any business, by circulating a draft of the resolution proposed, in case of urgency or in case the convening of a meeting of the Board is not feasible. No such resolution shall be deemed to have been duly passed by the Board as a written resolution unless the resolution has been circulated in draft, together with the necessary explanatory papers, if any, to all Directors, and has been approved in writing by a majority of the Directors who are entitled to vote on resolution. In the event that voting on such written resolution is evenly divided, the matter will be referred to a formal meeting of the Board where all Directors entitled to vote can participate, review the matter and consult each other in good faith to resolve any differences.
- 122.** The continuing Directors may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that fixed for the quorum, or for summoning a General Meeting of the Company, but for no other purpose.

123. The minutes of the company shall be maintained in accordance with section 118 of the Companies Act, 2013.
124. The Chairman of the Company shall preside as Chairman at every Board Meeting of the Company. If at any meeting the chairman is not present within 15 (fifteen) minutes after the time appointed for holding the meeting, the director present may choose one of the nominee of GoS/SPICL as the Chairperson of the meeting.
125. (i) The Board may, subject to the provisions of the Act, delegate any of its powers to committees consisting of such Member or Members of its body as it thinks fit, and it may, from time to time, revoke such delegation and discharge any such committee of the Board either wholly or in part and either as to persons or purposes, but every committee of the Board so formed shall in the exercise of the powers so delegated conform to any regulations that may from time to time be imposed on it by the Board. All acts done by any such committee of the Board in conformity with such regulations and in fulfilment of the purposes of their appointment but not otherwise, shall have the like force and effect as if done by the Board.
- (ii) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.
126. The meetings and proceedings of any such committee of the Board, consisting of 2 (two) or more Members shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Directors so far as the same are applicable thereto and are not superseded by any Regulations made by the Directors under the last preceding Regulation, unless otherwise provided under the Act or other Applicable Law.
127. (i) A committee may elect a chairman of its meetings.
- (ii) If at any meeting the chairman is not present within 15 (fifteen) minutes after the time appointed for holding the meeting, the members present may choose one of them as the Chairperson of the meeting.
128. (i) A committee may meet and adjourn as it thinks fit.
- (ii) Questions arising at any meeting of a committee shall be determined by a majority of votes of the Members present, and in case of an equality of votes the chairman shall have a second or casting vote.
129. All acts done in any meeting of the Board or of a committee thereof or by any person acting as a director, shall, notwithstanding that it may be afterwards discovered that there was some defect in the appointment of any one or more of such directors or of any person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such director or such person had been duly appointed and was qualified to be a director.
130. Save as otherwise expressly provided in the Act, a resolution in writing, signed by majority of Members of the Board or of a committee thereof, for the time being

entitled to receive notice of a meeting of the Board or committee, shall be valid and effective as if it had been passed at a meeting of the Board or committee, duly convened and held.

- 131.** If a meeting of the Board could not be held for want of quorum, then the meeting shall automatically stand adjourned to the same day at the same time and place in the next week or if that day is a national holiday, till the next succeeding day, which is not a national holiday, at the same time and place, and then the Directors present at the adjourned meeting, being not less than 2 (two) in number, shall constitute a valid quorum.

### **DUTIES OF DIRECTORS**

- 132.** (i) Every Director of the Company shall act in accordance with these Regulations and subject to the provisions of the Act.
- (ii) A Director of the Company shall act in good faith in order to promote the objects of the Company for the benefit of its Members as a whole, and in the best interests of the Company, its employees, the Shareholders, the community and for the protection of environment;
- (iii) A Director of the Company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment;
- (iv) A Director of the Company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the Company.
- (v) A Director of the Company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such Director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the Company.
- (vi) A Director of the Company shall not assign his office and any assignment so made shall be void.

### **BORROWING POWER**

- 133.** Subject to the provisions of the Act, and any directions issued by the Reserve Bank of India, the Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property (both present and future) and uncalled capital, or any part thereof and to issue debentures, debenture-stock and other Securities whether outright or as Security for any debt, liability or obligation of the Company or of any third party.
- 134.** Subject to the provisions of the Act, the payment or repayment of monies borrowed as aforesaid may be secured in such manner and upon such terms and conditions in all respects as the Board may think fit and in particular by a resolution passed at a meeting of the Board by the issue of debenture or debenture-stock of the Company,

charged upon all or any of the property of the Company (both present and future), including its uncalled capital for the time being.

135. All cheques, promissory notes, drafts, hundies, bills of exchange and other negotiable instruments and all receipts for monies paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such person and in such manner as the Board may, from time to time, by resolution determine.

### **KEY MANAGERIAL PERSONNEL**

136. Subject to the provisions of the Act, the Board may appoint key managerial personnel (KMP) for such term, at such remuneration and upon such conditions as it may think fit. Such person so appointed may also be removed by means of a resolution of the Board. The Board may appoint one or more chief executive officers for its multiple businesses.
137. A director may be appointed as chief executive officer, manager, company secretary or chief financial officer.
138. Subject to the applicable provisions of the Act, the Board may entrust and confer upon managing director or whole-time director/s, any of the powers of management which would not otherwise be exercisable by him upon such terms and conditions and with such restrictions as the Board, may think fit, subject always to the superintendence, control and direction of the Board and the Board may, from time to time, revoke, withdraw, alter or vary all or any of such powers.
139. A provision of the Act or these Regulations requiring or authorizing a thing to be done by or to a Director and chief executive officer, manager, company secretary or chief financial officer shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, chief executive officer, manager, company secretary or chief financial officer.

### **THE SEAL**

140. The Board may provide a Seal for the purposes of the Company and shall have power, from time to time, to vary or cancel the same and substitute a new seal in lieu thereof. The Board shall provide for the safe custody of the Seal, if any.
141. The seal shall not be affixed to any instrument except by the authority of resolution of the Board or of a committee of the Board authorized by it in that behalf in the presence of at least one director or Company Secretary/authorized person or two Directors, if so required by law and such Director/CS/authorised person or directors shall sign every instrument to which the seal be affixed in his/her presence and such signature shall be conclusive evidence of the fact that the seal has been properly affixed. The Company may exercise the powers conferred by the Act with regard to having an official Seal for use abroad, and such powers shall be vested in the Board. The Company may not be required to have an official Seal, if permitted by the Applicable Law.

### **DIVIDENDS AND RESERVES**

142. The Company in General Meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board.
143. Subject to the provisions of Section 123 of the Companies Act, 2013, the Board may from time to time pay to the Members such interim dividends as appear to it to be justified by the profits of the Company.
144. The Board shall declare dividends out of the net surplus profit after deductions of all relevant income tax and other taxes and after providing for such reserves and deductions as may be required by law or otherwise as may be determined by the Board or lenders from time to time in accordance with prudent financial practices and business requirements:

Provided that, after making all statutory provisions and retentions as per Applicable Law and, subject to restrictions imposed by the lenders under any of the financing agreements, the Board shall recommend the distribution of balance amount of profit as a dividend to the Shareholders.

145. The Board may before recommending any dividend, set aside out of the profits of the Company such sums as it thinks fit as a reserve or reserves which shall at the discretion of the Board, be applicable for any purpose to which the profits of the Company may be properly applied including provision for meeting contingencies or for equalizing dividends; and pending such application, may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than Shares of the Company) as the Board may, from time to time, think fit.
146. The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve.
147. The Company shall not declare dividend unless carried over previous losses and depreciation not provided in previous year(s) are set off against profit of the Company for the current year.
148. (i) Subject to the rights of Persons, if any, entitled to Shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the Shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the Shares in the Company, dividends may be declared and paid according to the amounts of the Shares.
- (ii) No amount paid or credited as paid on a Share in advance of calls shall be treated for the purpose of this Regulation as paid on the Share.
- (iii) All dividends shall be apportioned and paid proportionately to the amounts, paid or credited as paid on the Shares during any portion or portions of the period in respect of which the dividend is paid, but if any Share is issued on terms providing that it shall rank for dividend as from a particular date, such Share shall rank for dividend accordingly.
149. The Board may deduct from any dividend payable to any Member all sums of money, if

any, presently payable by him to the Company on account of calls or otherwise in relation to the Shares of the Company.

- 150.** (i) Any dividend, interest or other monies payable in cash in respect of Shares may be paid by electronic mode/cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that 1 (one) of the joint holders who is first named on the register of Members, or to such person and to such address as the holder or joint holders may in writing direct.
- (ii) Every such payment shall be made payable to the order of the person to whom it is sent.
- 151.** Any 1 (one) of 2 (two) or more joint holders of a Share may give effectual receipts for any dividends, bonuses or other monies payable in respect of such Share.
- 152.** Notice of any dividend that may have been declared shall be given to the persons entitled to Share therein the manner mentioned in the Act.
- 153.** No dividend shall bear interest against the Company, irrespective of the reason for which it has remained unpaid. No unclaimed dividends shall be forfeited by the Board and the Company shall comply with the provisions of Sections 124 and 125 of the Companies Act, 2013, in respect of such Shares.

## ACCOUNTS

- 154.** The Company shall prepare and keep at its Registered Office books of account and other relevant books and papers and financial statement for every financial year which give a true and fair view of the state of the affairs of the Company, including that of its branch office or offices, if any, and explain the transactions effected both at the Registered Office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting:

Provided that in accordance with the Act, all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board may decide and when the Board so decides the Company shall, within 7 (seven) days of the decision file with the Registrar a notice in writing giving the full address of that other place.

Provided further that the Company may keep such books of accounts or other relevant papers in electronic mode in such manner as may be prescribed.

- 155.** (i) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the Company, or any of them, shall be open to the inspection of Members, not being directors, subject to provisions of the Act.
- (ii) No Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by law or authorized by the Board or by the Company in General Meeting.



- 156.** The books of accounts of the Company shall be maintained in accordance with the generally accepted accounting principles in India, in accordance with Section 129 and Section 133 of the Companies Act, 2013 and shall truly and fairly reflect the Company's financial position or in accordance with the international financial reporting standards, if applicable to India.
- 157.** If the Company shall have a branch office whether in or outside India, proper books of account relating to the transactions effected at that office shall be kept at that office and proper summarized returns made up to date at intervals of not more than 3 (three) Months, shall be sent by the branch office to the Company at its Office or other place in India, as the Board thinks fit, where the main books of accounts of the Company are kept.
- 158.** All the aforesaid books shall give true and fair view of the Company's affairs or of its branch office, as the case may be, with respect to the matters aforesaid and explain its transactions.
- 159.** The books of account of the Company relating to a period of not less than 8 (eight) years immediately preceding the current year together with the vouchers relevant to any entry in such books of account shall be preserved in good order.
- 160.** The Company shall comply with applicable provisions in relation to corporate social responsibility provided under Section 135 of the Companies Act, 2013 and the Rules framed thereunder, in case the thresholds prescribed therein are applicable to the Company or at such time as the same become applicable to the Company.

## **FINANCIAL STATEMENTS**

- 161.** Financial Statements of the Company will be audited once in a year by a qualified auditor for correctness as per provisions of the Act.

## **AUDIT**

- 162.** (i) Appointment of the auditors, the terms and conditions of such appointment, their remuneration, powers, duties, removal and resignation shall be in accordance with the provisions of Sections 139-148 of the Companies Act, 2013 and the relevant rules framed under it.
- (ii) The Comptroller and Auditor General of India shall appoint an auditor of the Company, for a financial year, within 180 (one hundred and eighty) days from the commencement of the financial year, who shall hold office till the conclusion of the Annual General Meeting

Any casual vacancy in the office of the auditors shall be filled by the Comptroller and Auditor General of India in accordance with Section 139 of the Companies Act, 2013. In case the Comptroller and Auditor General of India does not fill the vacancy within the period specified in Section 139 of the Companies Act, 2013, the Board of the Company shall fill the vacancy within the period specified in that section.

- (iii) The auditor appointed by the Comptroller and Auditor General of India or by the Board shall audit the accounts of the Company in accordance with the provisions of Section 143 of the Companies Act, 2013.

### **SECRECY**

- 163.** Subject to the provisions of law of land and as decided by the Board, no Member or other person (not being a Director) shall be entitled to visit or inspect the Company's works without the authority of the Board or the any authorized person to require discovery of any information respecting any details of the Company's business, trading or customers of any matter which is or may be in the nature of a trade secret, mystery of trade or secret process or any other matter which may relate to the conduct of the business of the Company or which in the opinion of the Directors, it will be inexpedient in the interest of the Company to disclose.

### **WINDING UP**

- 164.** Subject to the provisions of the Act:
- (i) If the Company shall be wound up, the liquidator may, with the sanction of a Special Resolution of the Company and any other sanction required by the Act, divide amongst the members, in specie or kind, the whole or any part of the assets of the Company, whether they shall consist of property of the same kind or not.
  - (ii) For the purpose aforesaid, the liquidator may set such values as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members.
  - (iii) The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit but so that no member shall be compelled to accept any Shares or other Securities whereon there is any liability.

### **INDEMNITY**

- 165.** Subject to the provisions of the Act, every Officer of the Company shall be indemnified by the Company and it shall be the duty of the Directors out of the assets of the Company to pay, all bonafide costs, losses and expenses which any such officer may incur or become liable to by reason of any contract entered into or act or thing done or omitted by him as such officer or servant or in any way in the discharge of his duties; and in particular and so as not to limit the generality of the foregoing provisions, against any liability incurred by such Officer in defending any bonafide proceedings whether civil or criminal in which a judgement is given in his favour or in which he is acquitted or discharged or in connection with any application under Section 463 of the Companies Act, 2013 in which relief is granted to him by the court. The amount for which such indemnity is provided shall immediately attach as a

charge on the property of the Company.

## CHAPTER - B

**The provisions of this Chapter - B shall govern the rights and obligations *inter se* the Shareholders and the Company. As long as this Chapter - B remains a part of the Articles of the Company, the provisions of this Chapter - B shall prevail over the provisions of Chapter - A to the maximum extent permitted under the Act and other Applicable Law, in the event of any conflict or any inconsistency.**

### 166. CAPITAL STRUCTURE

- 166.1. The equity shareholding structure of the Company on a Fully Diluted Basis after the transfer of shares from the Asian Genco Pte. Ltd. (AGPL), Athena Projects Private Limited, APPL Power Private Limited and Dr. Chunchu Raghuvra Prasad, Mr. Srinivasan Gopalakrishnan, Mr. Hashu Pessumal Bhagat, Mr. Mulakala Surya Prakasa Rao, Mr. P.R. Ravikiran, Mr. Rajendra Singh and Ms. Padmavathi Vusirikala to the Greenko Group Entities is as follows:

Name of Shareholder	No. of Shares	Percentage Shareholding
GoS/SPICL	1,925,762,600	60.08
AGTPL	966,587,638	30.16
PTC	180,052,223	5.62
GEPL	132,984,539	4.14
GFPL / AGPL	100	0.00
IHPPL / ICE	100	0.00
EIPL / ICE	100	0.00
FFHPPL	100	0.00
RWPPPL	100	0.00
GRWPPL	100	0.00
GWECPL	100	0.00
VEPL	100	0.00
<b>Total</b>	<b>3,205,387,800</b>	<b>100.00</b>

- 166.2. The parties of SHA acknowledge that the GoS / SPICL has a right to hold at least 51% (fifty one per cent.) of the equity shareholding in the Company as per the decision of GoS. All Shareholders of the Company agree for maintenance of minimum equity shareholding of 51% by GoS/SPICL in the Company as per the decision of the GoS.
- 166.3. In the event any further equity infusion is required by the Company, *inter-alia*, for the reason of the requirement of additional capitalization; for funding the impact of force majeure event; for funding any impact of change of law, then the said equity infusion shall happen as per the provisions of the Act on rights basis.

- 166.4. The Shareholders further agree and acknowledge that any shares held by the GoS / SPICL and / or any GoS Company, as the case may be, are exempted from being pledged, and any and all shares held by GoS / SPICL and / or any GoS Company, as the case may be, shall not be subject to pledge requirements. The Shareholders agree that shares held by all Shareholders (other than the shares held directly by GoS / SPICL and / or any GoS Company and PTC), shall be subject to the requirement of pledge to be provided as security to the Lenders on a pro-rata basis to their shareholding, where so required by the Lenders. The Shareholders shall do all such acts, deeds and things as may be necessary or required or incidental thereto, to achieve the aforesaid purpose.
- 166.5. All the parties of SHA agree and state that the financial interest of the GoS exchequer would be protected by ensuring that the GoS/SPICL/GoS Company, partakes at first instance in proportion to its shareholding, and before any other Shareholder shares the same, in the proceeds of return of equity funds generated as per the Central Electricity Regulatory Commission regulated rates on the equity funds invested by GoS/SPICL/GoS Company in the Company, subject to applicable law(s).
- 166.6. The parties of SHA acknowledge that there may be present or future third party outflows/claims, which are pending/may be raised against the Company. The parties of SHA herein agree that the said third party outflows/claims (except for Term Loan outflows) would be resolved by all the parties of SHA amicably and expeditiously.
- 166.7. The parties of SHA represent that they have mutually resolved and/or settled all *inter-se* disputes, claims and/or demands asserted by any party of SHA against another party of SHA, as a result of, arising from, or in connection with the Project existing on 06.08.2015. Each party of SHA covenants that they and their Affiliates have already withdrawn all suits, proceedings, claims, demands, allegations, first information reports and actions initiated by such party of SHA or any of and/its Affiliates against another Shareholder and/or its Affiliates before any authority or forum (including any court, tribunal, arbitration, lok-adalat, Company) as a result of, arising from, or in connection with the Project as existing on 06.08.2015. The parties of SHA also agree to settle all the pending issues which Teestavalley Power Transmission Limited ("TPTL") has with its erstwhile contractors, with the Company taking the responsibility for the settlement of the same even to the extent of absorbing the impact of said settlement if the other shareholders of TPTL do not agree to take the impact of the said settlement. The parties of SHA acknowledge and confirm that they are relying on the aforesaid covenant of the counterpart in entering into the SHA.

## **167. MANAGEMENT RIGHTS**

### **167.1. Board Composition:**

- 167.1.1 The Board of the Company shall consist of 14 (Fourteen) Directors. Without prejudice to the generality of the foregoing, the Board of the Company shall consist of the following:
- (a) GoS/SPICL shall have the right to nominate 6 (six) Directors;
  - (b) AGTPL shall have the right to nominate 2 (two) Directors;
  - (c) Rural Electrification Corporation Limited ("REC") (lead lender of the Company) shall have the right to nominate 1 (one) Directors;

- (d) Power Finance Corporation Limited (“PFC”) (lender of the Company) shall have the right to nominate 1 (one) Director;
- (e) PTC shall have the right to nominate 1 (one) Director; and
- (f) GEPL shall have the right to nominate 1 (one) Director,
- (g) GoS shall have the right to appoint 2 (two) independent directors, of which one shall be a woman, on the Board of the Company as per provisions of the Act.
- (h) The respective Shareholders, REC and PFC shall have the right to replace their nominee Directors.

167.1.2. The Company has a right to nominate 7 (seven) representatives out of 12 (twelve) on the board of directors of TPTL. The following shareholders shall be entitled to nominate through the Company, the nominee Directors of Company on the board of TPTL:

- (a) GoS/ SPICL shall have the right to nominate 5 (five) representatives;
- (b) GEPL shall have the right to nominate 1 (one) representative; and
- (c) AGTPL shall have the right to nominate 1 (one) representative,

## **167.2. Chairman and Managing Director**

167.2.1 GoS / SPICL shall have the right to nominate the Chairman and the Managing Director of the Company. The Chairman of the meeting of the Board shall always be a GoS nominee on the Board. This right of GoS/SPICL shall include the right to seek removal, and the right to nominate any replacement thereof.

167.2.2. Each of the Shareholders shall do all acts necessary, including exercise of all rights (including voting rights) through its nominee Directors on the Board of the Company, and also exercise all rights (including voting rights) in any Shareholders’ meetings of the Company, to give effect to the nomination, removal or replacement of the aforesaid nominee Directors on the Board of the Company by respective Shareholders.

## **167.3. Valid Quorum for a Board / Management Committee of Directors meeting**

The presence of at least 1 (one) Director nominated by GoS/SPICL or its Associates, 1 (one) Director nominated by AGTPL or its Associates, and 1 (one) Director nominated by GEPL or its Associates, shall be mandatory to form the requisite quorum for all Board Meetings / Management Committee of Directors meeting.

In case a valid quorum is not present within 30 (thirty) minutes for a scheduled Board meeting, the meeting shall be adjourned to the same day, same time and same venue in the following week or if such day is a National/public holiday to the next Day thereafter. In such an adjourned meeting, except for the mandatory requirement of presence of at least 1 (one) Director nominated by GoS/SPICL or its Associates, the other conditions required for quorum in the Board meeting so adjourned shall not be the condition for constituting a valid quorum for such adjourned meeting of the Board.

In case a valid quorum is not present within 30 (thirty) minutes for a scheduled Management Committee of Directors Meeting, the said meeting shall be adjourned to the next Business day at the time communicated by the Chairman of the Management Committee of Directors. In such an adjourned Management Committee of Directors

meeting, except for the mandatory requirement of presence of at least 1 (one) Director nominated by GoS/SPICL or its Associates, the other conditions required for quorum in the said meeting so adjourned shall not be a condition for constituting a valid quorum for such adjourned meeting of the Management Committee of Directors.

For avoidance of doubt, it is hereby clarified that such adjourned Board / Management Committee of Directors meeting shall not include any matters specified in Annexure - 1 which require the affirmative vote of the GoS / SPICL Directors on the Board and the GoS / SPICL representative in the Shareholders' meeting, other than as included in the agenda contained in the written notice for meeting which got adjourned due to lack of valid quorum.

#### **167.4. Matters requiring Affirmative Vote :**

All matters listed in Annexure 1 shall require the affirmative vote of the GoS / SPICL Directors in the Board Meeting(s) and shall require the affirmative vote of the GoS/SPICL representatives in the Shareholder's Meeting(s).

#### **167.5. Comprehensive Management System**

The Company shall implement comprehensive management information systems and corporate governance programs, including:

- (a) GoS/SPICL shall have right to appoint at least 1(one) director in Audit Committee, Nomination & Remuneration Committee and Corporate Social Responsibility Committee and in any other Committee appointed by the Board.
- (b) Managing Director of the Company should provide construction, operation & maintenance, financial and all other updates to the Board of the Company every quarter and to the directors upon request/demand made.
- (c) The Company shall provide to all Directors access to all the books of accounts and shall provide quarterly financial statements relating to the operations and activities of SUL including un-audited balance sheets, profit and loss statements and cash flow statements and such other information and documents as a Director may reasonably request.
- (d) The Company shall duly pay all applicable taxes and duties according to law / rules/ regulations of the GoS/SPICL and Applicable Law of India and as may be required by the Implementation Agreement. Further, the Company shall pay Environment Cess @ 1 Paise per unit of electricity sold to GoS/SPICL or other amount as may be required by the Implementation Agreement or under Applicable Law.
- (e) The Company shall prepare business plan, all financial budgetary and operational accounts, reports and reviews, in accordance with generally accepted accounting norms followed in India and as required by Applicable Laws and regulations and prepare its financials accounts as required under the Act in accordance with the Indian accounting standards.

- (f) The Company shall adopt tax accounting practices as per applicable Indian regulations including Income Tax laws governing limited liability companies in India, and customs and practices in India.
- (g) The GoS and the Company shall ensure that the terms and conditions of employment (including remuneration, increments, promotions, etc.) of existing employees of the Company existing as on 06/08/2015 are not altered till the expiry of 6 months of COD.

#### **167.6. Valid Quorum for a Shareholders' Meeting**

All general meetings of the Shareholders shall be governed by the Act and the Restated Articles. The presence of 1 (one) GoS/SPICL representative, 1 (one) GEPL representative and 1 (one) AGTPL representative shall be mandatory to form the requisite quorum for any Shareholders' meeting. The Shareholders shall use all reasonable endeavours to procure that a valid quorum is present at and throughout each meeting of the Shareholders. In case the quorum is not present, the scheduled meeting shall be adjourned to the same day, same venue and same time in the following week or if such day is a holiday, to the next Business Day thereafter. If at such adjourned meeting of the Shareholders, an AGTPL representative, GEPL representative or a GoS/SPICL representative is not present, but the number of representatives of the Shareholders present is sufficient to constitute a valid quorum under the Act, then the Shareholders present shall be deemed to constitute a valid quorum for that meeting. In such an event, the requirement for the presence of 1 (one) GoS/SPICL representative, 1 (one) GEPL representative and 1 (one) AGTPL representative shall not be a condition for constituting a valid quorum for such adjourned meeting of the Shareholders. No special resolution can be passed in a general meeting without the presence of a representative of GoS/SPICL, provided that, if the representative of GoS/SPICL is absent for two consecutive shareholders' meetings convened to consider any special resolution, presence of GoS/SPICL representative will not be required for any further meeting convened to consider such special resolution.

#### **168. EXIT MECHANISM**

GoS/SPICL agrees to consider any proposal of any other Shareholder made after completion of 2 ("Two") Years from the Commercial Operation Date of the Project or earlier on mutual beneficial terms to divest some part of GoS/SPICL's equity share capital in the Company either in favour of such person or public/IPO, to whom the said Shareholder is selling its equity shares in the Company.

#### **169. RIGHT OF FIRST OFFER**

- (i) The Shareholders hereby agree that PTC shall be expressly excluded from the rights and obligations contained in Article 169(ii) below and nothing contained therein shall be applicable to PTC.

- (ii) In the event that any Shareholder desires to Transfer any or all of its shares in the Company (the “Selling Shareholder”), it shall first offer the said shares (“Sale Shares”) to the other Shareholders (the “Non-Selling Shareholders”).

The Selling Shareholder shall serve a written notice (“**Sale Notice**”) offering the Sale Shares to each of the Non-Selling Shareholders. Upon receipt of the Sale Notice, the Non-Selling Shareholders shall each have a right, but not the obligation, to make an offer to purchase in aggregate all, but not less than all, of the Sale Shares on a pro-rata basis (“**Purchase Offer**”) by serving upon the Selling Shareholder a written notice (“**Purchase Notice**”) setting out the terms including the proposed offer price (“**Purchase Price**”) for the Sale Shares within 15 (Fifteen) Business Days of receipt of the Sale Notice.

Upon the issuance of the Purchase Notice by any of the Non-Selling Shareholders (each an “**Exercising Party**”), the Selling Shareholder shall have the right, but not the obligation to accept the terms and conditions stated in the Purchase Notice and Transfer the Sale Shares to the Exercising Party.

Provided that in case not all of the Exercising Parties offer the same Purchase Price, then the highest price offered shall be deemed to be the Purchase Price, and the other terms and conditions set out in the Purchase Notice offering the highest price shall apply. The Selling Shareholder shall, if such highest price is acceptable to it, serve a written notice (the “**Price Determination Notice**”) of the Purchase Price and such other terms and conditions on the Exercising Parties within 18 (Eighteen) Business Days after receipt of the Purchase Notice from the last of the Exercising Parties. All Exercising Parties, other than those Exercising Parties whose Purchase Notices set out a proposed offer price lower than the Purchase Price stated in the Price Determination Notice (unless such Exercising Parties have confirmed their agreement to purchase the Sale Shares on the terms and conditions set out in the Price Determination Notice), shall make payment of their pro-rata share of the Purchase Price to the Selling Shareholder within a period of 2 (Two) Business Days from the date of receipt of the Price Determination Notice.

Provided further that, if any of the Non-Selling Shareholders do not wish to purchase their pro-rata entitlement of the Sale Shares, the Exercising Parties shall have the right to purchase all or a portion of the Sale Shares that the Non-Selling Shareholders did not wish to purchase, subject to each Exercising Party acquiring at least its pro-rata entitlement of the Sale Shares prior to purchasing any additional Sale Shares not purchased by the Non-Selling Shareholders. Each Exercising Party shall state its agreement to purchase all or part of the additional Sale Shares in its Purchase Notice. If the Exercising Parties exercise such right in the aggregate for more than the number of Sale Shares that the Non-Selling Shareholders did not wish to purchase, such Sale Shares shall be allocated among such Exercising Parties in proportion to their shareholding in SUL.

The terms and conditions of the Purchase Notice, including the obligation to purchase the Sale Shares, shall remain valid and binding on the Exercising Parties, for a period of 30 (Thirty) days from the date of the receipt of the Price Determination Notice by the Exercising Parties. Notwithstanding the preceding sentence, any Purchase Notice



setting out a proposed offer price lower than the Purchase Price in the Price Determination Notice shall lapse, unless the relevant Exercising Party confirms its agreement to purchase the Sale Shares on the terms and conditions set out in the Price Determination Notice offering higher price within 2 (Two) Business Days from the date of receipt of the Price Determination Notice by serving notice thereof on the Selling Shareholder and the other Exercising Parties. The other Exercising Parties may purchase all or part of those Sale Shares for which such Purchase Notice has lapsed on the terms set out in the Price Determination Notice, by serving notice thereof on the Selling Shareholder no later than 10 (Ten) Business Days from the date of receipt of the Price Determination Notice. If the Exercising Parties agree to purchase in the aggregate more than the Sale Shares in respect of which the Purchase Notices have lapsed, such Sale Shares shall be allocated among such Exercising Parties in proportion to their shareholding in SUL.

If, upon completion of the procedures set forth in this Article 169, the Exercising Parties in the aggregate shall have agreed to purchase less than the entire number of the Sale Shares, all Shareholders shall be deemed to have waived their right of first offer hereunder, and the Selling Shareholder may Transfer all, but not less than all, of the Sale Shares to any third party(ies) on such terms as the Selling Shareholder may agree.

Upon the expiry of 15 (Fifteen) Business Days from the date of the Sale Notice, if the Selling Shareholder has not received any Purchase Notice from any of the Non-Selling Shareholders, the Selling Shareholder shall be free to solicit offers for the purchase of all, but not less than all, of the Sale Shares from any third party(ies) ("**Third Party Purchase Offer**") and shall obtain terms of purchase including the proposed purchase price for the Sale Shares from the third party(ies).

The Selling Shareholder shall, in any event described in paragraph 7 and paragraph 8 of this Article 169(ii), be free to evaluate the various Third Party Purchase Offers vis-à-vis the Purchase Price and other terms and conditions offered by the Exercising Parties and shall have the right to Transfer all, but not less than all, of the Sale Shares to any such third party(ies) at a price not lower than the Purchase Price, and on terms and conditions no less favourable to the Seller, than those specified in the Price Determination Notice ("**Third Party Purchase Terms**").

If within a period of 90 (Ninety) Business Days from the date of the Purchase Notice, the Selling Shareholder fails to Transfer all the Sale Shares to either the Exercising Parties in accordance with the Price Determination Notice or to any third party(ies) in accordance with their respective Third Party Purchase Terms, the Selling Shareholder shall not Transfer any of the Sale Shares to any third party (ies) without issuing a fresh Sale Notice to each of the Non-Selling Shareholders.

#### **170. GEPL'S RIGHT OF FIRST REFUSAL ON PTC**

In the event PTC desires to sell its shares (full or part), in the Company, it shall make a sale offer first to GEPL mentioning the sale price and if GEPL does not accept such offer within 30 (Thirty) days from the date of the offer, PTC shall be free to sell its shares (in part or full) to any other third person/party.

## 171. TAG ALONG RIGHT

If either AGTPL or GEPL desire to Transfer the Sale Shares to a third party and is the Selling Shareholder according to Article 169 above, the Selling Shareholder shall provide PTC a pro-rata tag along right based on the ratio of (x) the number of Sale Shares being sold by the Selling Shareholder to (y) the Selling Shareholder's total shareholding in the Company ("Tag Ratio"). The Tag Ratio multiplied by 100 (Hundred) shall be referred to as the "Tag Percentage".

The Selling Shareholder shall send a written notice ("**Tag Along Notice**") to PTC, setting forth in detail the terms of the proposed sale, including the name(s) of the purchaser(s) to whom the proposed sale is to be made, price per Sale Share ("**Offered Price**"), number of shares proposed to be sold and other material terms of the proposed sale, and date of the proposed sale which shall not be less than 30 (Thirty) Business Days from the date of receipt of Tag Along Notice by PTC.

Upon receipt of the Tag Along Notice, PTC shall have the option to Transfer a number of shares equal to the product of (i) Tag Percentage and (ii) the total number of Shares owned by PTC in the Company, to the purchaser(s) on the terms and conditions mentioned in the Tag Along Notice by serving upon the Selling Shareholder a written notice in that regard within 15 (Fifteen) Business Days of receipt of the Tag Along Notice ("**Tag Along Option**").

PTC may, at its discretion, choose not to exercise the Tag Along Option, in which case, the Selling Shareholder shall be free to sell all the Sale Shares to any party on terms no more favourable to the buyer than stated in the Tag Along Notice.

If PTC exercises the Tag Along Option, the Selling Shareholder shall not Transfer the Sale Shares unless the shares with respect to which PTC has exercised the Tag Along Option are sold simultaneously, in each case in accordance with the Tag Along Notice. If PTC does not exercise its Tag Along Option and does not serve a written notice upon Selling Shareholder within 15 (Fifteen) Business Days of receipt of the Tag Along Notice, then the Selling Shareholder shall be entitled to Transfer the Sale Shares to the purchaser(s) mentioned in the Tag Along Notice at the Offered Price and on the terms mentioned in the Tag Along Notice.

## 172. DRAG ALONG RIGHT

- (1) In the event that AGTPL accepts a Third Party Purchase Offer with respect to the entire extent of AGTPL's shareholding in the Company and proposes to Transfer the Sale Shares to a third party purchaser, AGTPL shall have the right to drag along PTC, only for their entire shareholding on a Fully Diluted Basis and PTC shall have the obligation to offer their shares to the third party purchaser on the terms and conditions set out in this Article 172. However, prior to exercising its Drag along Right, AGTPL shall provide GEPL an opportunity to purchase the entire extent of Shares held by PTC on the same terms as stated in the Drag Along Notice. In the event that GEPL

does not exercise its right to purchase the entire extent of PTC's shares and make payment to PTC for the same on the terms stated in the Drag Along Notice within 7 (Seven) days from the date of receipt of the Drag Along Notice, AGTPL shall be free to exercise its Drag Along Right and to require PTC to transfer the entire extent of shares held by PTC to the purchaser on the same terms as stated in the Drag Along Notice.

Within 5 (Five) Business Days of agreeing to Transfer its shareholding in SUL to a third party purchaser, AGTPL shall send a written notice ("Drag Along Notice") to PTC and GEPL, setting forth in detail the terms of the proposed sale, including the name(s) of the third party purchaser(s) to whom the proposed sale is to be made, price per share ("Drag Price") payable by the third party purchaser, date of the proposed sale (which shall not be less than 7 (Seven) days from the date of receipt of the Drag Notice by PTC), and the number of shares required to be offered by PTC to such third party purchaser ("Drag Shares").

- (2) PTC shall be obligated to sell their shares pursuant to the Drag Along Notice only if all the following conditions are met with:
  - (a) The Drag Price is not less than the fair value of the Company divided by the total number of shares of the Company on a Fully Diluted Basis (which in any case shall not be less than the par value).
  - (b) The fair value shall have been determined by any one of the top four international accounting firms ("**Price Determination**") which should also reflect valuation pursuant to sale of majority stake.
- (3) Within 10 (Ten) Business Days from the date of receipt of the Drag Along Notice, PTC shall be obliged to (i) Transfer, in the manner required under Applicable Law, such number of Drag Shares held by them to such third party purchaser on the terms and conditions mentioned in the Drag Along Notice, and (ii) take all such necessary action to cause the consummation of such Transfer.

#### **173. AGTPL'S RIGHT OF FIRST OFFER ON PTC**

In case GEPL does not accept or does not respond to the offer made by PTC for the sale of its shares within 30 (Thirty) days from the date of the offer made by PTC as per Article 170, AGTPL shall be entitled to make an offer for the said PTC shares within 10 (Ten) days from the date of PTC informing to AGTPL. PTC shall be entitled to sell such shares to any third party purchaser at a price higher than what AGTPL has offered within a period of 120 (One Hundred and Twenty) days.

#### **174. PERMITTED TRANSFERS**

Notwithstanding anything contained in these Articles, a Shareholder shall be free at all times to Transfer any or all of its shares in SUL to such Shareholder's Affiliates without any Transfer restrictions whatsoever. AGTPL, and GEPL and GoS/SPICL shall also be free to Transfer their shares to their respective Associates without any Transfer restrictions whatsoever. Further, PTC shall also be entitled to Transfer its

shares in SUL to PTC Associates without any Transfer restrictions whatsoever. Any such Transfers to Affiliates/Associates/PTC Associates shall be subject to the transferee executing a deed of adherence in accordance with Article 175.

#### **175. DEED OF ADHERENCE**

In the event that any Shareholders wishes to Transfer any of the shares held by such Shareholder to any of its (i) Affiliates, (ii) Associates (only in case of AGTPL, and GEPL), (iii) PTC Associates (only in case of PTC) or (iv) third party, then such Transfer may be effected only after the transferor ensures that the transferee executes a deed of adherence agreeing to bind such transferee to the terms of these Articles in the same way that it bound such transferor. The format of the Deed of Adherence is attached as Annexure – 2.

#### **176. REPRESENTATIONS AND WARRANTIES**

Each party of SHA warrants and represents to the parties of SHA that:

- (a) it has full legal capacity to enter into the SHA and to perform its obligations under it and has taken all action necessary to authorise such execution and delivery and the performance of such obligations; and
- (b) the SHA has been duly executed and delivered by it, and constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with the terms and conditions of the SHA.
- (c) except as provided hereunder, neither the execution nor performance of the SHA by such party of SHA will conflict with, or result in a breach of, or give rise to an event of default under, or require the consent of a person under, or enable a person to terminate, or relieve a person from an obligation under, an Agreement, arrangement or obligation to which such party of SHA is a party.
- (d) such party of SHA is entering into the SHA on its own behalf and not on behalf of any other persons and has full power to enter into and perform and have obtained all applicable governmental, statutory, regulatory or other consents, approvals, licences, waivers or exemptions required to empower it to enter into and to perform its obligations under the SHA.

#### **177. ARTICLES OF ASSOCIATION**

The parties of SHA agree that the restated Articles will, at all times, incorporate and reflect the terms of the SHA. Each party of SHA hereby agrees to exercise its respective voting rights (at the Board and Shareholders level Meeting) to take such actions as may be necessary to cause the Company to adopt the restated Articles as annexed hereto as Annexure-2 within 7 days from the date of execution of the SHA. Till the time the amendment of Articles of Association (AoA) occurs, the AoA of the Company and the rights conferred on the shareholders therein would be read as if the said provisions and rights in the SHA and the AoA has been modified and the provisions of SPA and the SHA shall prevail.

## **178. NOTICES**

Any notice or other communication to be given under the SHA must be in writing in English which includes fax and, subject to the appropriate enabling legislation, email (but not any other form of electronic communication) and must be delivered or sent by post, fax or email to the party of SHA to whom it is to be given at its address set out below.

All notices and other communications required or permitted under the SHA that are addressed as provided in this clause will be delivered by at least two of the following modes: (a) if delivered personally or by courier, be deemed upon delivery; (b) if delivered by facsimile transmission, be deemed given when electronically confirmed; and (c) if sent by registered mail, be deemed given when received. Any party of SHA from time to time may change its address for the purpose of notices to that party by giving a similar notice specifying a new address, but no such notice will be deemed to have been given until it is actually received by the party sought to be charged with the contents thereof.

### **If to the GoS:**

Energy & Power Department Government of Sikkim,  
Gangtok-737101, Sikkim, India  
Telephone No: 03592-202244/202 284/ 22 919  
Fax: 03592 202 927/202 284/ 228 186  
Marked to the attention of PCE cum Secretary

### **If to the SPICL**

Beside Manan Bhawan, Development Area, Jeevan Theng Marg, Gangtok (Sikkim)  
737101  
Marked to the attention of Chairman & Managing Director

### **If to the Company:**

B2/1A Safdarjung Enclave, Africa Avenue, New Delhi 110029  
Marked to the attention of the Company Secretary

### **If to AGTPL:**

Asian Genco TUL Pte. Ltd.  
100 Cecil Street #15-02, The Globe, Singapore 069532  
Email to Patrice.Tze@firstisland.sg  
Copy to vinay.b@greenkogroup.com & Sateeshgupta.k@greenkogroup.com

**If to PTC**

2<sup>nd</sup> floor, NBCC Tower, 15, Bhikaji Cama Place, New Delhi-110066  
Marked to the attention of Chairman cum Managing Director

**If to GEPL**

Plot No.1071, Road No.44 Jubilee Hills Hyderabad - 500033  
Email to [secretarial@greenkogroup.com](mailto:secretarial@greenkogroup.com)  
Copy to [vinay.b@greenkogroup.com](mailto:vinay.b@greenkogroup.com) & [Sateeshgupta.k@greenkogroup.com](mailto:Sateeshgupta.k@greenkogroup.com)

**If to EIPL**

14, Factory Road, Block no. A, Ground floor, Adj. Vardhman Mahavir Medical College, Safdarjung, New Delhi- 110029  
Marked to the attention of Chairman

**If to GFPL**

50, Raffles Place, #32-01 Singapore Land Tower,  
Singapore – 048623  
Marked to the Attention of Company Secretary

**If to IHPPL**

Flat No. 1005, 10<sup>th</sup> Floor, Ambadeep Building, K. G. Marg, New Delhi – 110001  
Marked to the Attention of Company Secretary

**If to FFHPPL, GRWPPL, GWECPL, RWPPPL, VEPL**

Email to [secretarial@greenkogroup.com](mailto:secretarial@greenkogroup.com)  
Copy to [vinay.b@greenkogroup.com](mailto:vinay.b@greenkogroup.com) & [Sateeshgupta.k@greenkogroup.com](mailto:Sateeshgupta.k@greenkogroup.com)

**179. CHANGES IN PARTICULARS OF ADDRESSEE**

Any change to the particulars of any party of SHA, as set out in Clause 178 above, shall also be notified to all the other parties of SHA, and till such time that the notice or other communication of any such change in the particulars is delivered to the other parties of SHA, such changes shall not be effective and binding on such other parties of SHA.

**180. ENTIRE SHA**

The SHA supersedes all prior discussions and agreements, except the Implementation Agreement with respect to shareholding of GoS/SPICL in the Project (whether oral or written, including all correspondences) and the SHA apart from the Implementation Agreement contains sole and entire agreement in respect of rights and obligations of

GoS/SPICL in the Project. It is further agreed between the parties of SHA that the SHA is in supersession of all or any agreement(s) executed by the Company in respect of the Shareholders' rights, except the Implementation Agreement and Share Purchase Agreement vis-a-vis the conduct of business, management, voting rights on the Board/shareholders' meetings and shareholding structure of the Company. The Recitals and Annexures to the SHA form an integral part of the SHA and the parties of SHA shall be bound by the same.

#### **181. COSTS AND STAMP DUTY**

Each Shareholder shall pay their own costs and expenses, including fees of legal counsel, taxes and cost of travel, incurred by it in connection with the execution of the SHA.

Company shall bear stamp duty and costs payable in connection with execution of the SHA.

#### **182. WAIVER FORBEARANCE AND VARIATION**

Any term or condition of the SHA may be waived at any time by the party of SHA that is entitled to the benefit thereof. Such waiver must be in writing and must be executed by an authorized officer of such party of SHA. A waiver on one occasion will not be deemed to be a waiver of the same or any other breach or non-fulfilment on a future occasion. All remedies, either under the SHA, or by Law or otherwise afforded, will be cumulative and not alternative.

#### **183. AMENDMENT**

The SHA can only be amended, supplemented, replaced or novated, in writing, duly executed by the parties of SHA.

#### **184. SEVERABILITY**

If any provision of the SHA is held to be illegal, invalid, or unenforceable under any present or future law, and if the rights or obligations under the SHA shall not be materially and be adversely affected thereby:

184.1. such provision will be fully severable;

184.2. the SHA will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; and

184.3. the remaining provisions of the SHA will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance

## **185. GOVERNING LAW, JURISDICTION & ARBITRATION**

- (a) Any dispute or differences arising from and under the SHA would in the first instance be referred for resolution to a Committee consisting of one representative each of the parties of SHA. The said Committee would within 45 days of the receipt of such dispute / difference as referred to it by any party endeavor to resolve the same.
- (b) The SHA shall be governed by, and construed and interpreted in accordance with the laws of India.
- (c) Any dispute that could not be settled as per provisions of 185(a) above shall be settled exclusively and finally by arbitration under the Arbitration and Conciliation Act, 1996 as amended and replaced, and the rules framed thereunder.
- (d) The place of Arbitration shall be Sikkim and, the Courts in Sikkim shall alone and exclusively have the jurisdiction in respect of any dispute arising out or in connection with the SHA.
- (e) The arbitral tribunal shall consist of three arbitrators, one arbitrator appointed by the GoS and one appointed jointly by SUL, Greenko Consortium members, PTC, and other investors including financial institutions and private equity investors and such appointed arbitrators would appoint a third arbitrator within a period of 30 (thirty) days who would preside over the arbitral tribunal. In the event of failure to appoint arbitrator as aforesaid, the Arbitrators shall be appointed as per the provisions of Arbitration and Conciliation Act, 1996. The language to be used in the arbitration shall be the English language exclusively, and the award shall be a reasoned one written in the English Language.
- (f) Any decision of award of the arbitral tribunal shall be final and binding upon the parties of SHA. The parties of SHA hereto agree that the arbitral award may be enforced against the parties of SHA to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any competent court having jurisdiction thereof.

## **186. CONFIDENTIALITY**

During the term of the SHA and after termination or expiration of the SHA for any reason whatsoever the Receiving Party of SHA shall:

- (i) keep the Confidential Information confidential;
- (ii) not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party; and
- (iii) not use the Confidential Information for any purpose other than the performance of its obligations under the SHA.

During the term of the SHA, the Receiving Party may disclose the Confidential Information to its employees and advisers (the “**Recipient**”) to the extent that it is



necessary for the purposes of the SHA.

The Receiving Party shall procure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under the SHA as if the Recipient was a party to the SHA.

The obligations contained in Clauses (i) to (iii) above shall not apply to any Confidential Information which:

- (a) is at the date of the SHA or at any time after the date of the SHA comes into the public domain other than through breach of the SHA by the Receiving Party or any Recipient;
- (b) can be shown by the Receiving Party of the SHA to the reasonable satisfaction of the Disclosing Party of SHA to have been known to the Receiving Party prior to it being disclosed by the Disclosing Party to the Receiving Party; or
- (c) subsequently comes lawfully into the possession of the Receiving Party from a third party.

For the purposes of this Clause, “**Confidential Information**” means all information of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one Party (the “**Disclosing Party**”) to any other Party (the “**Receiving Party**”) whether before or after the date of the SHA.

## **187. INDEMNITIES**

In the event of any breach by either party of SHA of any representation, warranty, covenant or agreement made or given by either party in the SHA, such party undertakes to indemnify and hold harmless the other party to the extent of any and all damages (including without limitation all losses, costs, damages, fines, fees, penalties, out-of-pocket expenses under Applicable Law, fees and expenses of attorneys, accountants and other expenses) suffered or incurred by such party, resulting from or consequent upon or relating to such breach of representation or warranty, covenant or agreement.

## **188. NO AGENCY OR PARTNERSHIP**

The SHA shall not constitute the appointment of any party of SHA as the legal representative or agent of any other nor will any party of SHA have right or authority, to assume, create or incur any liability or obligation express or implied, against, in the name of, or on behalf of another party of SHA or the Company.

Nothing in the SHA creates or constitutes a partnership between the parties of SHA to it or any one of them.

Each party to the SHA acknowledges that nothing in the SHA gives it the right or authority to and undertakes not to represent or hold itself out as representing the other party to the SHA, whether to bind it contractually or for any other purpose.

#### **189. PRIMACY OF IMPLEMENTATION AGREEMENT**

Notwithstanding anything contained herein, the provisions of these Articles would not be in derogation of the rights conferred on the GoS in and under the Implementation Agreement dated 18.07.2005 as amended from time to time.

## **ANNEXURE 1**

### **Matters requiring an Affirmative Vote of the GoS / SPICL Director on the Board and a GoS / SPICL Representative in the Board Meeting / Shareholder Meeting**

- Establishing all material operations and capital decisions of the Company, including Annual/ quarterly operating budgets and capital expenditures etc.
- All decisions covering acquisitions, disposals of assets and liabilities of the Company of more than Rupees 1 (one) crore.
- Selecting, terminating and setting the compensation of management responsible for implementing the Company's policies and procedures.
- Appointment of the independent director on the Board of the Company
- Election of Chairman of the Management Committee and Audit Committee
- All decisions in respect of declaration of customary or expected dividends.

## ANNEXURE 2

### DEED OF ADHERENCE

THIS DEED ("Deed") is made on the [insert date] day of [insert month] of [insert year] amongst:

- *[insert name and description of the entity which is Transferring the shares] (hereinafter referred to as the "Seller" or "Transferor")*,
- *[insert name and description of the entity which is acquiring the shares] (hereinafter referred to as the "Acceding Party" or "Transferee")*,
- *[insert name and description of the entity which is Confirming the transfer] (hereinafter referred to as the "Confirming Party" or "Company" or "SUL")*,

#### WHEREAS:

- a. The Company and *[insert name of the party to the Agreement transferring the shares]* (the "Transferor") along with other shareholders of the Company entered into a Shareholder's Agreement as on ..... ("Agreement"), which forms part of the Deed and attached hereto as *Exhibit [ ]*;
- b. *[insert name of the party to the Agreement transferring the shares]* (the "Transferor") has agreed to transfer to the Acceding Party the Shares mentioned in the Schedule hereto (the "Transfer Shares") [under agreement dated [ ] entered into between [ ] and [ ]];
- c. The transfer of the Transfer Shares is subject to execution of this Deed which is supplemental to the Shareholders' Agreement dated *[insert date]* (the "Agreement").

#### NOW THIS DEED WITNESSES as follows:

1. The Acceding Party hereby confirms that it has been supplied with a copy of the Agreement and hereby covenants with and in favour of all present Parties to the Agreement (whether original or by accession), and also for the benefit of all Persons who subsequently become Parties thereto, that with effect from the date hereof, it will assume, fulfill and discharge and be bound by all obligations and liabilities provided in the Agreement which are applicable to it as a party to the Agreement, including all undertakings, limitations and restrictions contained therein or otherwise attached to the Transfer Shares on or after [insert date].
2. The Acceding Party will observe, perform and be bound by all the terms of the Agreement in all respects as if it had been originally named as a Party to the Agreement with respect to Transfer Shares and any reference to *[Transferor]* in the Agreement shall be read and construed as reference to both *[Transferor]* and *[Acceding Party]*.
3. The Transferor hereby covenant(s) and agrees with each of the [Original parties other than the Transferor] that on and from [ ], the Transferor shall be liable with the Acceding Party for the performance by the Acceding Party of its obligations under the Agreement with

respect to the Transfer Shares.

4. Each of the Parties hereto acknowledges and agrees that as of the date of signing this Deed, the Acceding Party shall become a party to, shall be bound by, and shall enjoy the rights and benefits under, the Agreement.

5. Words and expressions used but not otherwise defined in this Deed shall have the same meaning as in the Agreement

6. The initial address and other details of the Acceding Party for the purposes of the Agreement shall be:

*[insert address]*

7. This Deed shall be governed by and construed in accordance with the laws of India and Courts in Gangtok, Sikkim will have exclusive jurisdiction with respect to disputes arising under or in relation to this Agreement.

Signed and Executed on the above referred date by and on behalf of:

SIGNED AND DELIVERED by the  
within named Transferring Party (Transferor)

*[insert name]*

through its authorised signatory

*[Mr./Ms.] [insert name]*

in the presence of *[Mr./Ms.] [insert name]*

SIGNED AND DELIVERED by the  
within named Acceding Party

*[insert name]*

through its authorised signatory

*[Mr./Ms.] [insert name]*

in the presence of *[Mr./Ms.] [insert name]*

SIGNED AND DELIVERED by the  
within named Confirming Party

*[insert name]*

through its authorised signatory

*[Mr./Ms.] [insert name]*

in the presence of *[Mr./Ms.] [insert name]*

--- Subscription sheet here ---