

EXECUTION VERSION

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NUMBER G-2900

# Indemnity Agreement

(Republic of Angola – Luanda Bitá Water Supply Guarantee Project)

between

REPUBLIC OF ANGOLA

and

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Dated 25 June , 2021

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NUMBER G-2900

## INDEMNITY AGREEMENT

25 June 2021

INDEMNITY AGREEMENT, dated [insert date] (the “*Agreement*”), between REPUBLIC OF ANGOLA (the “*Member Country*”) and the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the “*Bank*”) in connection with the Guarantee Agreement of the same date (the “*Guarantee Agreement*”) between the Bank, the Guaranteed Lenders, and Standard Chartered Bank, acting as agent for the Guaranteed Lenders (the “*Beneficiary*”), pursuant to which the Bank has agreed, on the terms and subject to the conditions set forth therein, to guarantee the repayment of certain amounts of Loans under a term loan facility agreement of the same date (the “*Guaranteed Facility Agreement*”) between, *inter alios*, the Beneficiary acting as facility agent, the Guaranteed Lenders, and the Member Country acting by and through the Ministry of Finance of the Member Country (“*MinFin*”) as borrower (the “*Borrower*”), which Loans will finance in part a project consisting of the design, construction, installation, supervision, management, maintenance and operation of the first phase of investments (thirteen works lots numbered B1 through B13) in the Bitá water production, transmission and distribution facilities and systems, as such project is more fully described in Annex 1 (*Project Description*) to Project Agreement (the “*Project*”). The Member Country and the Bank therefore hereby agree as follows:

### ARTICLE I

#### General Conditions; Definitions

**Section 1.01.** The provisions of the General Conditions (as defined in the Appendix to this Agreement) set forth in Section II of the Appendix to this Agreement (including the modifications set out therein) constitute an integral part of this Agreement.

**Section 1.02.** Unless otherwise defined in this Agreement or the context otherwise requires, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in Section I of the Appendix to this Agreement.

**Section 1.03.** References in this Agreement to any document are references to such document as originally executed and, if amended, supplemented or replaced, to such document as amended, supplemented or replaced from time to time (provided that where consent is required to amend, supplement or replace, such consent has been obtained), and shall include any document that amends, supplements or replaces it. References in this Agreement to any party or any other person or entity includes its successors in title, permitted assigns and permitted transferees.

## ARTICLE II

### Indemnity by Member Country to the Bank; Opinion; Guarantee Fee

**Section 2.01.** In consideration of the Bank providing the Guarantee on the terms and conditions set out in the Guarantee Agreement, the Member Country hereby irrevocably and unconditionally agrees:

(a) to reimburse the Bank immediately on demand or as the Bank may otherwise direct in writing for any amount paid by the Bank under the Guarantee Agreement together with interest thereon at the rate per annum determined by the Bank and notified to the Member Country (which rate shall not exceed the Bank's highest prevailing lending rate for loans with a fixed spread (or, in case no such fixed spreads are shown at that time, a variable spread) denominated in the currency of payment, as may be shown from time to time on the Bank's external website) from the date such payment is made by the Bank until such amount is reimbursed in full;

(b) to indemnify the Bank on demand and hold the Bank harmless against all actions, proceedings, liabilities, claims, losses, damages, costs and expenses brought against, suffered or incurred by the Bank directly or indirectly in relation to or arising out of or in connection with the Guarantee Agreement (except as otherwise provided in Section 8.04(i) of the General Conditions);

(c) that the obligations of the Member Country under this Agreement will not be affected by any act, omission, matter or thing which, but for this Section, would reduce, release or prejudice any of its obligations under this Agreement; and

(d) in the event that the Bank receives funds from the Member Country pursuant to Section 2.01(a) and, in respect of the same amounts, the Bank receives a refund of funds from the Beneficiary pursuant to the Guarantee Agreement or receives funds as a result of the exercise of the Bank's subrogation rights under the Guarantee Agreement (the "**Double Payment**"), then the Bank shall promptly refund to the Member Country the amount of the Double Payment together with any interest payments received pursuant to the Guarantee Agreement by the Bank from the Beneficiary in respect of such Double Payment.

**Section 2.02.** Any payment required to be made by the Member Country pursuant to the terms of this Agreement shall be applied first, to pay all interest and other charges due to the Bank and second, after such interest and other charges are paid, to pay all other amounts then due to the Bank under this Agreement.

**Section 2.03.** The Member Country shall furnish to the Bank an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank or, if the Bank so requests, a certificate satisfactory to the Bank of a competent official of the Member Country, showing the following matters: (a) that this Agreement, the Guaranteed Facility Agreement and the Project Documents have been duly authorized or ratified by, and executed and delivered on behalf of, the Member Country or the Implementing Entity (as the case may be) and are legally binding upon the Member Country or the Implementing Entity (as the case may be) in accordance with its terms; and (B) any other matter reasonably requested by the Bank in connection with this Agreement or the Project. The Member Country acknowledges that the receipt by the Bank of such opinion, opinions or certificate will be a condition to the effectiveness of the Guarantee.

**Section 2.04.** (a) In consideration of the Bank providing the Guarantee on the terms and conditions set out in the Guarantee Agreement, the Member Country shall pay (or cause to be paid from the proceeds of the initial disbursement of the Loans) directly to the Bank, in each case in a single lump sum:

(i) a front-end fee (the “*Front-end Fee*”) in an amount equal to 0.25% (25 basis points) of the Guarantee Face Value;

(ii) a guarantee fee (the “*Guarantee Fee*”) equivalent to 0.70% (70 basis points) per annum of the Bank’s projected financial exposure under the Guarantee, as calculated by the Bank; and

(iii) a standby fee (the “*Standby Fee*”) equivalent to 0.25% (25 basis points) per annum applied against the Bank’s projected contractually committed but undisbursed exposure under the Guarantee, which shall accrue from the date sixty (60) days after the date of signature of the Guarantee Agreement, as calculated by the Bank.

(b) The Front-end Fee, the Guarantee Fee and the Standby Fee shall be due and payable to the Bank on or before the effective date of the Guarantee. The Front-end Fee, the Guarantee Fee and the Standby Fee shall be paid to the Bank by electronic transfer in immediately available freely transferable funds in Dollars to the bank account designated by the Bank.

(c) Following the end of the Availability Period, the Bank shall, if so requested by the Member Country in writing, (i) carry out a one-time true-up exercise to recalculate the Guarantee Fee and the Standby Fee based on the actual amounts and dates of the Utilisations, any repayments or prepayments of the Loans, and any cancellations or reductions of the Commitments, in each case as at the end of the Availability Period, and (ii) if applicable, notify the Member Country of any reduction to the amount of the Guarantee Fee and Standby Fee as a result of that exercise and reimburse the amount of such reduction to the Member Country.

### ARTICLE III

#### Project

**Section 3.01.** The Member Country declares its commitment to the objectives of the Project and shall undertake the obligations with respect to the Project set forth in the Schedule to this Agreement.

### ARTICLE IV

#### Remedies

**Section 4.01.** In addition to the other remedies available to the Bank under loan and guarantee agreements between the Bank and the Member Country, in the event that: (i) the Member Country has failed to perform any of its obligations under Article II, Article III or any other provision of this Agreement and such failure has continued and remained uncured in the opinion of the Bank

for sixty (60) days or more after notice thereof shall have been given to the Member Country by the Bank; or (ii) any representation made by the Member Country in or pursuant to this Agreement, or any representation or statement furnished by the Member Country and intended to be relied on by the Bank in providing the Guarantee, shall in the opinion of the Bank have been incorrect in any material respect, then the Bank, or the Association, as the case may be, may suspend or cancel in whole or in part the Member Country's right to make withdrawals under any loan agreement between the Bank and the Member Country, or under any development credit agreement or financing agreement between the Association and the Member Country, or any Bank loan or Association credit to a third party guaranteed by the Member Country, or declare the outstanding principal and interest of any such loan or credit due and payable immediately.

## **ARTICLE V**

### **Effective Date**

**Section 5.01.** This Agreement shall come into force and effect upon signature by the parties.

## **ARTICLE VI**

### **Representative; Addresses**

**Section 6.01.** The Member Country's Representative is its Minister of Finance.

**Section 6.02.** For purposes of Section 10.01 of the General Conditions:

(a) the Member Country's Address is:

Ministry of Finance  
Largo da Mutamba  
C.P. 12 35  
Luanda  
Republic of Angola

(b) the Member Country's Electronic Address is:

Facsimile:	E-mail:
+244 222 33 8548	administrativo.gmf@minfin.gov.ao

**Section 6.03.** For purposes of Section 10.01 of the General Conditions:

(a) the Bank's Address is:

International Bank for Reconstruction and Development  
1818 H Street NW  
Washington, DC 20433  
United States of America

Attention: Mark R. Lundell  
Regional Director, Sustainable Development  
Ref: Number G-2900

with a copy to: Practice Manager, Infrastructure Finance and Guarantees

(b) the Bank's Electronic Address is:

Facsimile: E-mail:  
+1 (202) 522-0761 mlundell@worldbank.org

With a copy to: guarantees@worldbank.org

AGREED as of the day and year first above written.

**REPUBLIC OF ANGOLA**

By: Josef Alves  
Authorized Representative

Name (printed): Vera Daves de Sousa

Title: Minister of Finance

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

By: \_\_\_\_\_  
Authorized Representative

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

AGREED as of the day and year first above written.


**REPUBLIC OF ANGOLA**

By: \_\_\_\_\_  
Authorized Representative

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

By: \_\_\_\_\_  
Authorized Representative 

Name (printed): Jean-Christophe Carret

Title: Country Director



## SCHEDULE

1. The Member Country hereby undertakes to the Bank (a) to punctually perform all of its obligations under this Agreement and all other Transaction Documents to which it is a party, (b) to take all lawful action within its power to cause MinEA, EPAL and the Implementing Entity to punctually perform all of their respective obligations under the Transaction Documents, and (c) to take all lawful action within its power to ensure that each representation and warranty made by MinEA, EPAL and the Implementing Entity under the Project Agreement is true and correct in all material respects (subject to Clause 6(m)(ii) (*Times when Representations are Made*) of the Project Agreement); *provided, however*, that if during the Availability Period any cure period applies with respect to a breach of any such representation and warranty under Clause 8 (*Cure Periods and Remedies*) of the Project Agreement, then the Guarantor's remedies pursuant to Clause 4.01(i) with respect to any related breach of this paragraph (c) shall only be exercisable following the expiry of such cure period.

2. The Member Country shall notify the Bank prior to agreeing to any material amendment, waiver, termination or other change to any Transaction Document to which the Member Country is a party, and shall obtain the written consent of the Bank (such consent not to be unreasonably withheld or delayed) prior to agreeing to any amendment, waiver, termination or other change to such agreement or undertaking which (a) would or could in the reasonable opinion of the Bank materially affect the rights or obligations of the Bank under the Guarantee Agreement, the Guaranteed Facility Agreement, the Project Agreement or the Indemnity Agreement (including any assignment, transfer, novation, abrogation, granting of security over or other disposition of any rights or obligations under such agreements) or (b) in the case of any BPIfrance-Covered Finance Document, the ATI Participation Agreement or the ATI Treaty or any undertaking thereunder, would or could in the reasonable opinion of the Bank materially and adversely affect (i) the Project or (ii) the ability of any party to any of the Transaction Documents to observe or perform any of its obligations in accordance therewith.

3. The Member Country shall promptly: (a) notify and provide to the Bank copies of: (i) any notices, claims, demands, reimbursements or recoveries under the Transaction Documents to which it is a party that could result in or relate to actions to enforce the payment of any Guaranteed Liability, or (ii) any other notices issued or received by the Member Country under any Transaction Document to which it is a party regarding any event or circumstance that could reasonably be expected to have a material adverse effect on (A) the Project or (B) the ability of any party to any of the Transaction Documents to observe or perform any of its obligations in accordance therewith; and (b) notify the Bank of any event or circumstance which would or could adversely affect the Member Country's ability to perform its obligations or exercise its rights under any Transaction Document to which it is a party, *provided* that to the extent that any information to be provided under this clause is subject to a confidentiality restriction imposed by a third party, the Member Country shall use reasonable endeavours to procure that such third party permits disclosure of such information to the Bank. Without limiting the generality of the foregoing, the Member Country shall inform the Bank of any withdrawal of amounts from the Cash Support Account and any failure to replenish the Cash Support Account as required in accordance with the Guaranteed Facility Agreement, in each case promptly after the occurrence thereof.

4. The Member Country shall take all lawful actions within its power to remedy and cure any event within the Member Country's control or responsibility that would or could result in the breach or termination of any Transaction Document.

5. The Member Country shall not create or permit to exist or occur and shall take all lawful actions within its power to ensure that no Public Sector Entity shall create or permit to exist or occur, any circumstance, or change in the laws or regulations in effect in the Member Country after the date of this Agreement that would render any obligations under any Transaction Document illegal, invalid, unenforceable, ineffective or void in whole or in part. If such circumstance or change exists or occurs, the Member Country shall take all lawful actions within its power to remedy and cure or to procure that the appropriate Public Sector Entity remedies and cures, the adverse effect on the Project of such circumstance or change in law or regulation.

6. The Member Country shall:

- (a) take all actions that shall be necessary on its part and take all lawful actions within its power to procure that any other Public Sector Entity takes all actions necessary on its part to enable the Implementing Entity and the Contractors to obtain any authorization for the Project or any part thereof required under the Project Documents or the Safeguards Instruments;
- (b) carry out promptly, and take all lawful actions within its power to cause any other Public Sector Entity to carry out promptly, or as may otherwise be agreed between the Member Country and the Bank, any action required to be performed by it or such Public Sector Entity to enable it, the Implementing Entity and the Contractors to comply with the requirements of the Safeguards Instruments; and
- (c) not take, and shall take all lawful actions within its power not to cause or permit any other Public Sector Entity to take, any action that would prevent or interfere with the performance by EPAL, MinEA and the Implementing Entity or any Contractor of any of its obligations in connection with the Project or under the Transaction Documents or any other agreement related to the Project; and
- (d) not, without the Guarantor's prior written consent (unless the Member Country has complied with its obligation under Section 5.08(c) (*Project Monitoring and Evaluation*) of the General Conditions):
  - (i) dissolve, disestablish, or suspend the operations of EPAL; or
  - (ii) change its ownership or control of EPAL from that existing at the date of this Agreement (except, for the avoidance of doubt, any sale, transfer or assignment by the Member Country of any voting interest in EPAL's share capital that would not result, directly or indirectly, in the Member Country's loss of its ability to elect or appoint a majority of EPAL's board of directors (or equivalent body), or its ability to direct the management or policies of EPAL.

7. The Member Country (a) affirms to the Bank that no Sanctionable Practices have been engaged in by any official or representative of the Member Country or any Public Sector Entity and (b) shall not engage (and shall ensure that no Public Sector Entity engages) in any Sanctionable Practices, in each case during and with respect to the performance of any contract or activity related to the Project.

8. Without prejudice to Sections 5.10 (*Cooperation and Consultation*) and 6.01 (*Financial and Economic Data*) of the General Conditions, the Member Country shall, upon request, promptly provide the Bank all information necessary, in the reasonable opinion of the Bank, for the Bank's review of the Member Country's performance of its covenants pursuant to this Schedule.

9. The Member Country acknowledges, in accordance with Clause 1.4(a) (*Third party rights*) of the Guaranteed Facility Agreement, that the Bank is a third party beneficiary of certain provisions of the Guaranteed Facility Agreement that expressly grant the Bank certain rights (including the right to receive copies of notices and other communications or consent rights). Accordingly, the Member Country shall provide the Bank with copies of all Utilisation Requests and other notices and communications that are expressly required to be provided to the Bank thereunder in accordance with the provisions thereof.

10. If at any time the Member Country becomes aware (whether by notice from the Bank or otherwise) that (a) the Beneficiary is required or entitled to withdraw amounts on deposit in or standing to the credit of the Cash Support Account in accordance with the Guaranteed Facility Agreement but is unable to do so for Angola Reasons or (b) the Guaranteed Lenders wish to appoint (in accordance with the Guarantee Agreement) a successor Beneficiary following an Agent Withholding Event but such successor is unable to assume its role due to Angola Reasons, then the Member Country shall promptly take all lawful actions within its power to enable such withdrawal from the Cash Support Account or to enable such successor Beneficiary to assume its role as soon as reasonably practicable. If, in connection with any circumstance described in clause (a) of this paragraph 10, the Bank notifies the Member Country that it has paid amounts under the Guarantee that were permitted or required (but unable) to be paid from amounts on deposit in or standing to the credit of the Cash Support Account, then the Member Country shall take all lawful action within its power to cause such amounts to be paid to the Bank from the Cash Support Account as soon as possible to the extent that the Bank has not been reimbursed for such payments under the Guarantee pursuant to Section 2.01(a).

11. The Member Country shall ensure availability of sufficient budgeted amounts and funding arrangements acceptable to the Bank:

- (a) for the Member Country to compensate or reimburse the Contractors for all value-added tax (*Imposto de Valor Acrescentado*) incurred or to be incurred by the Contractors in performing their obligations under the Contracts;
- (b) to cover all payment obligations of the Implementing Entity under the Design-Build Contract and Supervision Contract for Lot B4;
- (c) to cover all costs incurred or to be incurred by EPAL to satisfy its obligations under the Design-Build Contracts to obtain all permits and other authorisations needed for the permanent works thereunder;

- (d) without prejudice to the Member Country's obligations under paragraph 1 of this Schedule, to the extent that funding under the Second Water Sector Institutional Development Project (P151224) (the "*PDISA2 Project*") is not available therefor, to cover all costs that are contemplated to be funded under the PDISA2 Project as specified in the Project Operations Manual, including without limitation:
  - (i) the following Project-related costs:
    - (A) all costs of the Independent Technical Auditor, Independent E&S Auditor and Resident Technical Advisors (as such terms are defined in the Project Agreement);
    - (B) all costs of the annual auditing of the financial reports for the Project and the Resettlement Escrow Account in accordance with Clause 7(g)(iii) (*Covenants - Financial Management, Financial Statements and Audits*) of the Project Agreement;
    - (C) all costs of the independent consultant to be hired by the Implementing Entity to undertake resettlement completion audits and prepare and deliver Resettlement Completion Audit Reports (as defined in the Project Agreement) in accordance with the Safeguards Instruments;
    - (D) operating costs, equipment and/or budget support for the PIU (excluding compensation for staff of the Implementing Entity assigned to the PIU and construction costs for the PIU field office); and
    - (E) costs of training PIU staff; and
  - (ii) all costs of consultancies and other services and selected small equipment for capacity building, performance improvement, and planning of the Implementing Entity to support its implementation of the Performance Improvement Plan and achievement of the Five Objectives;
- (e) to cover all Eligible Costs to the extent such costs will not be payable until after the Availability Period, including any remaining Eligible Costs under the Design-Build Contract for Lots B1, B3 and B7;
- (f) to cover Eligible Costs in an amount equal to any Loan proceeds that the Bank has identified, in a notice provided to the Member Country within 45 days after receipt of a notice of a drawdown of the Guaranteed Facility or any report on final project costs as certified by the Implementing Entity's external auditors or the Independent Technical Auditor (as defined in the Project Agreement), as having been applied to a cost that is not an Eligible Cost as a result of having been disbursed other than in accordance with a Utilisation Request meeting the requirements of Clause 5 (*Utilisation*) of the Guaranteed Facility Agreement;

- (g) to ensure that EPAL has sufficient budgeted amounts to cover all activities and investments required to achieve the Five Objectives as contemplated in the action plans to achieve the Five Objectives as set forth in the Project Operations Manual;
- (h) to ensure that EPAL has sufficient budgeted amounts to cover all compensation for staff of the Implementing Entity assigned to the PIU and all construction costs for the PIU field office;
- (i) to cover the costs of all goods and services supplied or rendered to the Implementing Entity under (i) the Design-Build Contract for Lots B1, B3 and B7 solely by the Financed Consortium Member (as defined in the BPIfrance-Covered Facility Agreement) and (ii) the subcontract between the Design-Build Contractor for Lot B2 and the Facility B Nominated Supplier (as defined in the BPIfrance-Covered Facility Agreement), in each case to the extent (x) that such costs do not constitute Facility A Eligible Goods and Services or Facility B Eligible Goods and Services, respectively, due to the cap on such goods and services provided in the definition of those terms under the BPIfrance-Covered Facility Agreement and (y) the Commitments under the Guaranteed Facility Agreement are insufficient to cover such costs; and
- (j) to cover contingency amounts under the Project Documents to the extent the Commitments under the Guaranteed Facility Agreement are insufficient to cover such amounts.

12. As soon as practicable after the Member Country's receipt of written notice relating to the same or the Member Country's actual knowledge of the occurrence thereof, the Member Country will keep the Bank promptly (or with such other regularity as the Bank and the Member Country may otherwise agree in writing) informed of any Event of Default or Default or prepayment event under the Guaranteed Facility Agreement.

13. The Member Country shall not cancel the whole or any part of any Available Facility under the Guaranteed Facility Agreement or the BPIfrance-Covered Facility Agreement without the Bank's prior written consent.

14. If (a) by the date that is 6 months before the end of the Availability Period, the Member Country reasonably expects that Loan proceeds will need to be applied to pay Eligible Costs after the end of the Availability Period (for example, due to delays in Project implementation) or (b) the Bank requests it to do so in writing, then the Member Country shall promptly request an extension of the Availability Period under the Guaranteed Facility Agreement in a manner and for an extension period reasonably satisfactory to the Bank.

## APPENDIX

## Section I. Definitions

1. “*Agent Withholding Event*” has the meaning provided in the Guarantee Agreement.
2. “*Angola Reasons*” has the meaning provided in the Guarantee Agreement.
3. “*Anti-Corruption Guidelines*” means the “Anti-Corruption Guidelines for World Bank Guarantee and Carbon Finance Transactions” set forth in Section III of this Appendix.
4. “*ATP*” means the African Trade Insurance Agency.
5. “*ATI Participation Agreement*” means the participation agreement entered into or to be entered into between the Member Country and ATI.
6. “*ATI Treaty*” means the Agreement Establishing the African Trade Insurance Agency
7. “*Availability Period*” has the meaning provided in the Guaranteed Facility Agreement.
8. “*Available Facility*” has the meaning provided in the Guaranteed Facility Agreement or the BPIfrance-Covered Facility Agreement, as applicable.
9. “*BPIfrance-Covered Facility Agreement*” means the BPIFAE Term Loan Facility Agreement, dated on or about the date hereof, between the Borrower, Standard Chartered Bank (Hong Kong) Limited, Banco Santander, S.A. and Landesbank Hessen-Thüringen Girozentrale as lenders, and Standard Chartered Bank as facility agent, providing the Borrower with a loan facility to finance part of the Project and which will benefit from an insurance cover from Bpifrance Assurance Export.
10. “*BPIfrance-Covered Finance Documents*” means the BPIfrance-Covered Facility Agreement and the other Finance Documents (as defined in the BPIfrance-Covered Facility Agreement).
11. “*Cash Support Account*” has the meaning provided in the Guaranteed Facility Agreement.
12. “*Commitment*” has the meaning provided in the Guaranteed Facility Agreement.
13. “*Contractor*” has the meaning provided in the Project Agreement.
14. “*Default*” has the meaning provided in the Guaranteed Facility Agreement.
15. “*Design-Build Contracts*” has the meaning provided in the Project Agreement.
16. “*Eligible Cost*” any cost towards which amounts borrowed under the Guaranteed Facility are permitted to be applied in accordance with Clause 3.1 (*Purpose*) of the Guaranteed Facility Agreement.
17. “*EPAL*” means Empresa Pública de Águas – Empresa Pública, a public interest company (*empresa de interesse público*) established under the laws of Angola pursuant to Decree n.º 72-A/01 published in the Official Journal of the Republic on 5 October 2001.

18. “**Event of Default**” has the meaning provided in the Guaranteed Facility Agreement.
19. “**Finance Documents**” means the Guaranteed Facility Agreement and all other documents designated as such thereunder.
20. “**Five Objectives**” has the meaning provided in the Project Agreement.
21. “**IBRD Agreements**” means this Agreement, the Project Agreement, the Guarantee Agreement and the Cooperation Agreement.
22. “**General Conditions**” means the General Conditions for IBRD Financing, Investment Project Financing, dated December 14, 2018 (Revised on August 1, 2020, December 21, 2020, and April 1, 2021), with the modifications set forth in Section II of this Appendix.
23. “**Guarantee**” means the guarantee provided by the Bank pursuant to the Guarantee Agreement.
24. “**Guarantee Face Value**” has the meaning provided in the Guarantee Agreement.
25. “**Guaranteed Lenders**” has the meaning provided in the Guarantee Agreement.
26. “**Guaranteed Liability**” has the meaning provided in the Guarantee Agreement.
27. “**Implementing Entity**” means MinEA represented by EPAL.
28. “**Loan**” has the meaning provided in the Guaranteed Facility Agreement.
29. “**MinEA**” means the Ministry of Energy and Water of the Member Country.
30. “**Performance Improvement Plan**” has the meaning provided in the Project Agreement.
31. “**PIU**” has the meaning provided in the Project Agreement.
32. “**Project Agreement**” means the Project Agreement dated the date hereof between the Implementing Entity and the Bank.
33. “**Project Documents**” has the meaning provided in the Project Agreement.
34. “**Project Operations Manual**” has the meaning provided in the Project Agreement.
35. “**Public Sector Entity**” means:
  - (a) the government of the Member Country, the parliament of the Member Country, any governmental department or ministry, agency, body, (including EPAL and any other state-owned company or other state-owned entity) instrumentality or public authority, whether national, state, regional or local (or any subdivision thereof), or any other entity subject to the overall control or direction as to matters of policy of the government of the Member Country or which is otherwise controlled by the government of the Member Country;

- (b) any court in the Member Country with jurisdiction over the Implementing Entity or the Project or any part thereof; or
  - (c) any other person in the Member Country having or asserting authority to issue a license, approval or consent required or necessary in connection with the Project, or otherwise having jurisdiction over any aspect of the Project.
36. “**Safeguards Instruments**” has the meaning provided in the Project Agreement.
37. “**Sanctionable Practices**” means any Corrupt Practice, Fraudulent Practice, Coercive Practice, Collusive Practice or Obstructive Practice, as those terms are defined and interpreted in accordance with the Anti-Corruption Guidelines.
38. “**Supervision Contracts**” has the meaning provided in the Project Agreement.
39. “**Transaction Documents**” means the IBRD Agreements, the Project Documents, the Finance Documents, the BPIfrance-Covered Finance Documents, the ATI Participation Agreement and the ATI Treaty.
40. “**Utilisation**” has the meaning provided in the Guaranteed Facility Agreement.
41. “**Utilisation Request**” has the meaning provided in the Guaranteed Facility Agreement.

## **Section II. General Conditions**

The following provisions of the General Conditions, with the modifications set forth below, constitute an integral part of this Agreement:

1. Section 1.01 (*Application of General Conditions*), modified to read as follows:
 

““These General Conditions set forth terms and conditions generally applicable to the Legal Agreement and Project Agreement, to the extent the Legal Agreement and Project Agreement so provide.”
2. Sections 1.02 (*Inconsistency with Legal Agreements*), 1.03 (*Definitions*) and 1.04 (*References, Headings*).
3. Sections 3.06 (*Place of Payment*), 3.07 (*Currency of Payment*), 3.09 (*Valuation of Currencies*) and 3.10 (*Manner of Payment*).
4. Section 5.08 (*Project Monitoring and Evaluation*) (modified by replacing the reference to the term “Loan” with the term “Guarantee” and by replacing the reference to “the Closing Date” with “the date occurring after the expiry of the 12-month operating period following provisional acceptance of the works under all Design-Build Contracts (as contemplated by Article 19.1 and paragraph 3.1 of annex A to the Project Management Contract) or any earlier date after the end of the Availability Period notified by the Bank to the Member Country”).
5. Sections 5.10 (*Cooperation and Consultation*) (modified by replacing references to the term “Loan” with the term “Guarantee”), 5.11 (*Visits*) and 5.12 (*Disputed Area*).



6. Section 6.01 (*Financial and Economic Data*).
7. Section 6.02(a) (*Negative Pledge*), modified to read as follows:
 

“It is the policy of the Bank, in making loans to, or with the guarantee of, its member countries not to seek, in normal circumstances, special security from the member concerned but to ensure that no other Covered Debt shall have priority over its loans in the allocation, realization or distribution of foreign exchange held under the control or for the benefit of such member country. To that end, if any Lien is created on any Public Assets as security for any Covered Debt, which will or might result in a priority for the benefit of the creditor of such Covered Debt in the allocation, realization or distribution of foreign exchange, such Lien shall, unless the Bank shall otherwise agree, *ipso facto* and at no cost to the Bank, equally and ratably secure the amounts payable by the Member Country under this Agreement, which, for purposes of this Section only, shall be deemed to be equal to the Maximum Aggregate Guaranteed Amount under the Guarantee Agreement, and the Member Country, in creating or permitting the creation of such Lien, shall make express provision to that effect; provided, however, that if for any constitutional or other legal reason such provision cannot be made with respect to any Lien created on assets of any of its political or administrative subdivisions, the Member Country shall promptly and at no cost to the Bank secure all amounts payable by the Member Country under this Agreement by an equivalent Lien on other Public Assets satisfactory to the Bank.”
8. Sections 6.02(c) and (d).
9. Article VIII (*Enforceability; Arbitration*).
10. Section 10.01 (*Execution of Legal Agreements; Notices and Requests*), modified by deleting at the beginning of the second sentence of Section 10.01(b) the words “Except as otherwise provided in Section 9.03(a).”
11. Section 10.02 (*Action on Behalf of the Loan Parties and the Project Implementing Entity*), modified by deleting the words “(and the representative designated by the Project Implementing Entity in the Project Agreement or the Subsidiary Agreement)” and “(or the Project Implementing Entity).”
12. Section 10.03 (*Evidence of Authority*), modified by deleting the words “and the Project Implementing Entity.”
13. Section 10.04 (*Disclosure*).
14. Paragraphs 8 (“Arbitral Tribunal”), 9 (“Association”) and 12 (“Bank”) of the Appendix.
15. Paragraph 13 (“Borrower”) of the Appendix, modified to read as follows:
 

““Borrower” means the Member Country that is the party to the Loan Agreement.”
16. Paragraphs 14 (“Borrower’s Representative”), 27 (“Covered Debt”), 28 (“Currency”), 41 (“Dollar”, “\$” and “USD”), 44 (“Electronic Address”), 45 (“Electronic Communications System”), 46 (“Electronic Document”) and 47 (“Electronic Means”) of the Appendix.
17. Paragraphs 50 (“Euro”, “€” and “EUR”) and 51 (“Euro Area”) of the Appendix.

18. Paragraph 69 (“Legal Agreement”) of the Appendix, modified to read as follows:

““Legal Agreement” means the indemnity agreement between the Member Country and the Bank pertaining to the Guarantee, as such agreement may be amended from time to time. “Legal Agreement” includes these General Conditions as applied to the Legal Agreement, and all appendices, schedules and agreements supplemental to the Legal Agreement.”

19. Paragraph 71 (“Lien”) of the Appendix.

20. Paragraph 74 (“Loan Agreement”) of the Appendix, modified to read as follows:

““Loan Agreement” means the Legal Agreement.”

21. Paragraph 76 (“Loan Party”) of the Appendix, modified to read as follows:

““Loan Party” means the Borrower.”

22. Paragraph 88 (“Project”) of the Appendix, modified by deleting the words “for which the Loan is extended.”

23. Paragraph 89 (“Project Agreement”) of the Appendix, modified to read as follows:

““Project Agreement” means the project agreement entered into on or about the date of the Legal Agreement between the Bank and the Project Implementing Entity in connection with the Guarantee, as the same may be amended from time to time in accordance with its terms. “Project Agreement” includes these General Conditions as applied to the Project Agreement, and all appendices, schedules and agreements supplemental to the Project Agreement.”

24. Paragraph 90 (“Project Implementing Entity”) of the Appendix, modified to read as follows:

““Project Implementing Entity” means the Implementing Entity which is a party to the Project Agreement.

25. Paragraphs 93 (“Public Assets”), 105 (“Taxes”), 107 (“Umpire”) and 114 (“Yen”, “¥” and “JPY”) of the Appendix.

### **Section III. Anti-Corruption Guidelines for World Bank Guarantee and Carbon Finance Transactions**

The purpose of these Guidelines is to clarify the meaning of the terms “Corrupt Practices,” “Fraudulent Practices,” “Coercive Practices,” “Collusive Practices” and “Obstructive Practices” in the context of World Bank project-based guarantee operations and carbon finance transactions, where the World Bank, as trustee of a carbon fund, purchases emission reductions under an emission reductions purchase agreement.

#### **1. CORRUPT PRACTICES**

A “Corrupt Practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.

#### **INTERPRETATION**

- A. Corrupt practices are understood as kickbacks and bribery. The conduct in question must involve the use of improper means (such as bribery) to violate or derogate a duty owed by the recipient in order for the payor to obtain an undue advantage or to avoid an obligation. Antitrust, securities and other violations of law that are not of this nature are excluded from the definition of corrupt practices.
- B. It is acknowledged that foreign investment agreements, concessions and other types of contracts commonly require investors to make contributions for bona fide social development purposes or to provide funding for infrastructure unrelated to the project. Similarly, investors are often required or expected to make contributions to bona fide local charities. These practices are not viewed as Corrupt Practices for purposes of these definitions, so long as they are permitted under local law and fully disclosed in the payor's books and records. Similarly, an investor will not be held liable for corrupt or fraudulent practices committed by entities that administer bona fide social development funds or charitable contributions.
- C. In the context of conduct between private parties, the offering, giving, receiving or soliciting of corporate hospitality and gifts that are customary by internationally-accepted industry standards shall not constitute corrupt practices unless the action violates applicable law.
- D. Payment by private sector persons of the reasonable travel and entertainment expenses of public officials that are consistent with existing practice under relevant law and international conventions will not be viewed as Corrupt Practices.
- E. The World Bank Group does not condone facilitation payments. For the purposes of implementation, the interpretation of “Corrupt Practices” relating to facilitation payments will take into account relevant law and international conventions pertaining to corruption.

## **2. FRAUDULENT PRACTICES**

A “Fraudulent Practice” is any action or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

#### **INTERPRETATION**

- A. An action, omission, or misrepresentation will be regarded as made recklessly if it is made with reckless indifference as to whether it is true or false. Mere inaccuracy in such information, committed through simple negligence, is not enough to constitute a “Fraudulent Practice” for purposes of World Bank Group sanctions.
- B. Fraudulent Practices are intended to cover actions or omissions that are directed to or against a World Bank Group entity. It also covers Fraudulent Practices directed to or against a World Bank Group member country in connection with the award or

implementation of a government contract or concession in a project financed by the World Bank Group. Frauds on other third parties are not condoned but are not specifically sanctioned in World Bank Guarantee or carbon finance operations. Similarly, other illegal behavior is not condoned, but will not be sanctioned as a Fraudulent Practice under the World Bank sanctions program as applicable to World Bank Guarantee or carbon finance operations.

### **3. COERCIVE PRACTICES**

A “Coercive Practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

#### **INTERPRETATION**

- A. Coercive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.
- B. Coercive Practices are threatened or actual illegal actions such as personal injury or abduction, damage to property, or injury to legally recognizable interests, in order to obtain an undue advantage or to avoid an obligation. It is not intended to cover hard bargaining, the exercise of legal or contractual remedies or litigation.

### **4. COLLUSIVE PRACTICES**

A “Collusive Practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.

#### **INTERPRETATION**

Collusive Practices are actions undertaken for the purpose of bid rigging or in connection with public procurement or government contracting or in furtherance of a Corrupt Practice or a Fraudulent Practice.

### **5. OBSTRUCTIVE PRACTICES**

An “Obstructive Practice” is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making of false statements to investigators, in order to materially impede a World Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice, and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts intended to materially impede the exercise of the World Bank’s access to contractually required information in connection with a World Bank Group investigation into allegations of a corrupt, fraudulent, coercive or collusive practice.

#### **INTERPRETATION**

Any action legally or otherwise properly taken by a party to maintain or preserve its regulatory, legal or constitutional rights such as the attorney-client privilege, regardless of whether such action had the effect of impeding an investigation, does not constitute an Obstructive Practice.

**GENERAL INTERPRETATION**

A person should not be liable for actions taken by unrelated third parties unless the first party participated in the prohibited act in question.