

MEMORANDUM OF UNDERSTANDING

Between

**THE INVESTMENT BOARD
GOVERNMENT OF NEPAL**

And

NHPC LIMITED

Regarding

**The Development of West Seti Hydroelectric Project
and Seti River-6 Hydroelectric Project**

August 18, 2022
Bhadra 2, 2079 B.S.

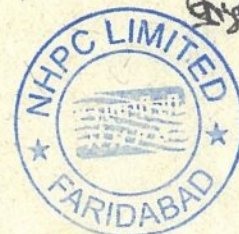
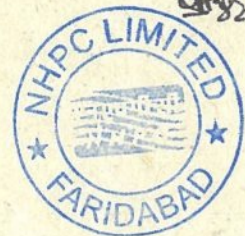


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Memorandum of Understanding ("MoU") dated August 18, 2022

between

THE INVESTMENT BOARD, GOVERNMENT OF NEPAL ("IBN"), constituted pursuant to Section 5 of the Public-Private Partnership and Investment Act, 2075 B.S. (2019),

and

NHPC LIMITED, a Government of India Enterprise, having its registered office at NHPC Complex, Sector-33, Faridabad, Haryana-121003, India ("**NHPC**").

IBN and NHPC each shall be referred to as the "**Party**" and together the "**Parties**".

PREAMBLE:

1. The India-Nepal Joint Vision Statement on Power Sector Cooperation, issued on April 02, 2022, during the visit by Rt. Hon'ble Prime Minister of Nepal, Sher Bahadur Deuba, to New Delhi, India, states in Paragraph 4 that "Nepal invited Indian companies to invest in the development, construction and operation of viable renewable power projects, including in the Hydropower sector in Nepal, including storage-type projects, including through mutually beneficial partnerships."
2. The Press Release, dated May 16, 2022, issued by the Government of Nepal, Ministry of Foreign Affairs following the official visit of His Excellency Shri Narendra Modi, Prime Minister of India, to Lumbini, states in Paragraph 10 that "Prime Minister Deuba invited interested companies from India such as NHPC for the development of West Seti Hydroelectric project."
3. NHPC submitted an application, dated May 31, 2022, to IBN to develop the West Seti (750 MW) Hydroelectric Project and Seti River-6 (450 MW) Hydroelectric Project through negotiation as per sub-Section (2) of Section 29 of the Public-Private Partnership and Investment Act, 2075 B.S. (2019).
4. The 51st board meeting of IBN, held on 2079/02/23 B.S. (June 6, 2022), decided to recommend the Government of Nepal (Council of Ministers) to grant approval to NHPC to develop West Seti Hydroelectric Project and Seti River-6 Hydroelectric Project through negotiation as per sub-Section (2) of Section 29 of the Public-Private Partnership and Investment Act, 2075 B.S. (2019).
5. Based on the recommendation of the 51st board meeting of IBN, the Government of Nepal (Council of Ministers) made the following decisions on 2079/02/31 B.S. (June 14, 2022):
 - a. approved the West Seti Hydroelectric Project and Seti River-6 Hydroelectric Project for development through negotiation pursuant to sub-Section (2) of Section 29 of the Public-Private Partnership and Investment Act, 2075 B.S.



(2019) based on the report of the committee constituted by the 47th board meeting of IBN, held on 2078/03/08 B.S. (June 22, 2021), for study of the West Seti and Seti River-6 Hydroelectric Projects.

- b. approved the application of NHPC, dated May 31, 2022, to develop the West Seti (750 MW) Hydroelectric Project and Seti River-6 (450 MW) Hydroelectric Project through negotiation as per sub-Section (2) of Section 29 of the Public-Private Partnership and Investment Act, 2075 B.S. (2019).
 - c. formed a Negotiation Committee as per sub-Section 2 of Section 29 of the Public-Private Partnership and Investment Act, 2075 B.S. (2019), led by the Chief Executive Officer of IBN, to negotiate with NHPC to draft MoU related to study of the West Seti (750 MW) Hydroelectric Project and Seti River-6 (450 MW) Hydroelectric Project.
6. IBN is the key agency of the Government of Nepal which is responsible for contributing to economic prosperity of the country through private investment including public-private partnership ("PPP") and to promote investment for construction of infrastructure and development of service sector by mobilizing national and foreign resources.
 7. NHPC, incorporated in 1975, is one of the largest hydropower developers in India under the majority ownership of the Ministry of Power, Government of India.
 8. Subject to terms and conditions of this MoU, provisions of the prevailing laws of Nepal and Good Industry Practice, IBN permits NHPC to conduct the Detailed Project Study to prepare Detailed Project Report (the "DPR") upon obtaining the Survey License for the Generation Projects without any financial liability on the Government of Nepal.



NOW, THEREFORE THE PARTIES HEREBY DECLARE THEIR UNDERSTANDING AS FOLLOWS:

1. DEFINITIONS

In this MoU, unless the subject or the context otherwise requires, the capitalized terms and phrases shall have the meanings given to them in this Section:

"Act" means the Public-Private Partnership and Investment Act, 2075 B.S. (2019).

"Concerned Agency" means any federal, provincial, local level authority or administrative or regulatory body or quasi-judicial authority in Nepal having jurisdiction over NHPC or the Generation Projects or any action or transaction contemplated in connection with this MoU in Nepal.

"Detailed Project Report" or the **"DPR"** means the comprehensive document to be prepared by NHPC in accordance with the decision of the GoN, prevailing laws of Nepal and Good Industry Practice setting on all the technical parameters of the Generation Projects, its designs and drawings and enumeration of all its economic, financial, commercial, technical, environmental studies and social costs in accordance with the Terms of Reference for the Detailed Project Study (ToR-DPS) proposed in the Inception Report.

"Detailed Project Study" means the detailed study to be conducted by NHPC amongst others to prepare a **"Detailed Project Report"** or the **"DPR"**.

"Force Majeure Event" means circumstances that are beyond the reasonable control of the Parties and that affect the Parties' ability to fulfil their obligations under this MoU including, without limitation, earthquake, act of war, civil unrest, insurrection, fires, flood, pandemic, and other similar circumstances.

"Generation Projects" means both West Seti and Seti River-6 Projects.

"Good Industry Practice" means the exercise of that degree of skill, diligence, prudence, and foresight that would reasonably be expected from developers of hydroelectric projects conducting the permitted activities in connection with the study and preparation of DPR in accordance with the best practices, methods, standards, and codes that are generally accepted internationally and as included in the Inception Report.

"IBN" means the Investment Board, Government of Nepal constituted pursuant to Section 5 of the Act.

"Inception Report" means the Report to be prepared by NHPC as per Section 3.1 of this MoU.

"MoU Date" means the date on which this MoU is signed by the Parties.

"Performance Bond" means an unconditional, irrevocable, and payable on-



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demand bank guarantee in Nepali currency issued by a commercial bank of Nepal in favour of IBN for the performance of NHPC's responsibilities under this MoU for the duration as mentioned in Section 5 of this MoU and substantially in the form set out in Schedule 3 of this MoU.

"Reports" means Inception Report, draft DPR, DPR and other reports prepared in accordance with the requirements of this MoU.

"Representatives" means the authorised representatives of the Parties.

"Rules" means the Public-Private Partnership and Investment Rules, 2077 B.S. (2020).

"Seti River-6" means the proposed 450 MW Seti River-6 Hydroelectric Project in Doti and Achham districts in Sudurpashchim Province, Nepal.

"West Seti" or "WSHEP" means the proposed 750 MW West Seti Hydroelectric Project in Doti, Baitadi, Dadeldhura, and Bajhang districts in Sudurpashchim Province, Nepal.

2. OBJECTIVES

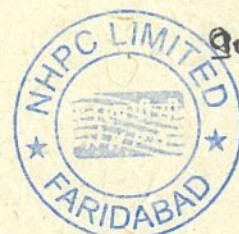
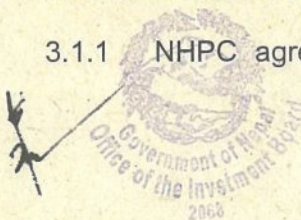
2.1 The objectives of this MoU are to:

- 2.1.1 permit NHPC to undertake the Detailed Project Study after obtaining Survey License for Generation Projects and associated transmission lines;
- 2.1.2 set out the procedure and the timetable for NHPC to complete required activities in connection with the Reports and relevant environmental study;
- 2.1.3 set out the rights and obligations of the Parties;
- 2.1.4 set out the activities to be carried out by the Parties for the development of the Generation Projects and associated transmission lines;
- 2.1.5 acknowledge that, upon submission of the DPR to the satisfaction of IBN, IBN will enter into negotiations for the Project Development Agreement (PDA) with NHPC's subsidiary company incorporated as per the prevailing laws of Nepal;
- 2.1.6 set out the consequences if NHPC fails to complete the activities in Section 2.1.2 of this MoU.

3. NHPC'S RIGHTS AND OBLIGATIONS

3.1 Previous Studies and Inception Report

- 3.1.1 NHPC agrees that previously conducted study or studies ("**Previous**



Studies") will be beneficial for the Generation Projects. The full list of Previous Studies is listed in Schedule 1 of this MoU.

3.1.2 NHPC shall deposit the payment as per Schedule 1 of this MoU in a bank account or the bank accounts prescribed by IBN for access to the Previous Studies before applying for the issuance of the Survey License for Generation Projects.

3.1.3 NHPC shall review the Previous Studies and undertake a gap analysis addressing, including but not limited to, the following scope forming part of the Inception Report:

- (A) Technical, Social, Environmental, Economic, Financial, and Geological dimensions;
- (B) Optimization of the Generation Projects and their Components;
- (C) Generation Projects' development scheme including storage or peaking storage and modalities for developing the Generation Projects in conjunction to each other or independent (stand alone) of each other;
- (D) Detailed cost estimation;
- (E) Generation Projects' Development's (study, construction, and completion) Work Plan;
- (F) Market Access and Availability;
- (G) Transmission/power evacuation system;
- (H) Availability of financial resources;
- (I) Implementation methods.

3.1.4 The Inception Report as per Section 3.1.3 of this MoU shall include the Terms of Reference for Detailed Project Study (the "**ToR-DPS**") covering but not limited to:

- (A) The details of topographical surveys, if any;
- (B) The types and details of Geological and Geotechnical studies;
- (C) Hydrological, Sedimentological and Meteorological studies;
- (D) Seismological studies;
- (E) Reservoir simulations, reservoir sedimentation, and Energy Estimate;
- (F) Generation Projects' optimization (including energy market, Generation Projects' installed capacity, Generation Projects' cost, other projects in river basins);
- (G) Design requirement for the Generation Projects' components and other relevant studies;
- (H) Power Evacuation Studies on transmission line;
- (I) Social and Environmental studies;
- (J) Market availability and assurance for sale of energy from the Generation Projects;



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- (K) Generation Projects' cost estimations; economic, financial analysis
- (L) Generation Projects' Development's (study, construction, and completion) Work Plan;

- 3.1.5 NHPC, in the Inception Report, shall present the list of guidelines, codes and technical standards that shall be complied with while designing the Generation Projects' components and field investigations during the Detailed Project Study.
- 3.1.6 NHPC, in the ToR-DPS, shall also present the scope of environmental studies, methodology, and timeline, as required as per the prevailing laws and regulations of Nepal.
- 3.1.7 NHPC, in the ToR-DPS, shall also set out the detailed work plan and major milestones for DPS and submission of DPR, Project Development Agreement, Power Purchase Agreement, Generation Projects' construction period including commercial operation date (COD), and Financial Close of the Generation Projects as part of the Inception Report.

3.2 Survey License, Duration and Fees

- 3.2.1 Upon submission of fees pursuant to Section 3.2.3 of this MoU and cost of Previous Studies pursuant to Section 3.1.2 of this MoU, NHPC shall apply for Survey License for Generation Projects as follows:
 - (A) West Seti: No later than forty-five (45) days after the MoU Date.
 - (B) Seti River-6: No later than six (6) months after the MoU Date.
- 3.2.2 The term of the Survey License for Generation Projects shall be two (2) years from the date of issuance.
- 3.2.3 As per sub-Rule 3 of Rule 29 of the Rules, NHPC shall pay and deposit fee for Survey License for Generation Projects in a bank account as designated by IBN for the amounts below and submitting the evidence thereof to IBN:
 - (A) **West Seti:** NPR 60,00,000 (Nepalese Rupees Sixty Lakhs Only) per year.
 - (B) **Seti River-6:** NPR 50,00,000 (Nepalese Rupees Fifty Lakhs Only) per year.
- 3.2.4 As per sub-Rule 10 of Rule 29 of the Rules, if the term of Survey License for Generation Projects is extended, NHPC shall pay for each year of extension an amount equivalent to the fees stated in Section 3.2.3 of this MoU.

3.3 Study, Preparation, and Submission of DPR



- 3.3.1 NHPC shall appraise the Previous Studies, undertake an Inception Study, and submit an Inception Report to IBN within the time schedule as set out in Schedule 2 of this MoU.
- 3.3.2 IBN shall review the Inception Report and convey its observations to NHPC. NHPC shall revise the Inception Report based on IBN's observations and shall re-submit the revised Inception Report to IBN.
- 3.3.3 Upon submission of the revised Inception Report to IBN, NHPC shall undertake the necessary DPS and prepare and submit the DPR as per the ToR-DPS in the Inception Report within the time schedule as set out in Schedule 2 of this MoU.
- 3.3.4 On IBN's request, NHPC shall coordinate and share information with relevant stakeholders including Concerned Agency while conducting the DPS and preparing the Reports.
- 3.3.5 NHPC shall provide all necessary cooperation and assistance, including information sharing, as required by IBN officials and national and international experts designated by IBN for monitoring of NHPC's obligations as per the ToR-DPS.
- 3.3.6 NHPC shall undertake the relevant environmental studies of the Generation Projects in accordance with the prevailing laws of Nepal as an integral part of the Detailed Project Study. The environmental studies shall be submitted to IBN within the time schedule as set out in Schedule 2 of this MoU.

3.4 Progress Report

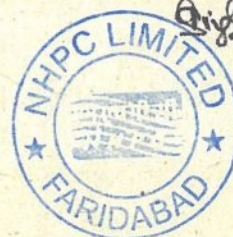
NHPC shall submit the progress report of the Detailed Project Study to IBN within 7 (seven) days following the end of each two-month period as per the Gregorian calendar.

3.5 Permitted Activities

NHPC and its Representatives shall engage in the Permitted Activities in relation to conducting the DPS and preparing the DPR in accordance with this MoU, Good Industry Practice, and the prevailing laws of Nepal as specified in Schedule 4.

3.6 Financing of the Detailed Project Study and Reports

- 3.6.1 NHPC agrees and acknowledges that it is responsible for the conduct of the Detailed Project Study and preparation and finalization of the Reports as mentioned in this MoU.
- 3.6.2 NHPC shall bear all costs and expenses in relation to conduct of the Detailed Project Study and the preparation and finalization of the Reports as mentioned in this MoU.



3.6.3 Notwithstanding anything to the contrary contained in this MoU, NHPC acknowledges and agrees that IBN shall not be financially liable and NHPC shall not claim any costs, expenses, or compensation whatsoever from IBN:

- (A) in relation to this MoU;
- (B) to conduct the Detailed Project Study; or
- (C) in preparation and finalization of the DPR and Reports as mentioned in this MoU.

3.7 Format of Reports

NHPC shall submit the Reports in both hard copies and soft copies. The soft copies shall be submitted in PDF format. The technical, economic, and financial analysis shall be submitted in MS Excel with traceable formulas whereas maps and drawings shall be submitted in Computer-Aided Design (CAD) format.

3.8 Application for Project Development Agreement

NHPC may submit an application for Project Development Agreement to IBN as per the provisions of the Act and the Rules, provided that NHPC complies with all its obligations under this MoU and the DPR is completed to the satisfaction of IBN.

4. RIGHTS AND RESPONSIBILITIES OF IBN

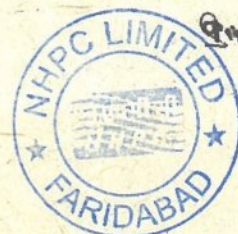
4.1 In accordance with the prevailing laws of Nepal, IBN:

- 4.1.1 shall issue the Survey License for Generation Projects to NHPC to undertake the Detailed Project Study to prepare the DPR and any other Reports as mentioned in this MoU;
- 4.1.2 shall provide the Previous Studies to NHPC in hard copy and soft copy after IBN's receipt of the payment from NHPC in accordance with Section 3.1.2 of this MoU;
- 4.1.3 provide reasonable assistance and support for the necessary clearances and approvals for NHPC to conduct the studies for the DPR;
- 4.1.4 shall facilitate in obtaining the Survey License for Transmission.

4.2 In relation to the submission of the DPR:

4.2.1 Upon submission of the DPR by NHPC, IBN shall have the full right to:

- (A) convey that submission of the DPR is completed;
- (B) prescribe additional terms and conditions conveying that the submission of DPR is completed, if necessary;
- (C) convey its observations to NHPC, which NHPC shall take into



consideration to make necessary changes to the DPR to ensure its compliance with the provisions of the prevailing laws of Nepal, the Terms of Reference (ToR-DPS), and Good Industry Practice and re-submit the revised DPR; or

(D) deny to acknowledge the submitted DPR if IBN finds that the DPR is not made in compliance with the laws of Nepal, Terms of Reference (ToR-DPS) and Good Industry Practice.

4.2.2 In exercising its rights under Section 4.2.1, IBN shall make no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of the DPR received by IBN, and NHPC confirms that it shall have no claim whatsoever against IBN in this regard.

5. PERFORMANCE BOND

5.1 For the purpose of concluding this MoU and issuing the Survey License for Generation Projects, both Parties acknowledge the indicative total cost of West Seti and the indicative total cost of Seti River-6 as follows:

5.1.1 **West Seti:** In NPR 168,194,400,000 (In Words: Nepalese Rupees One Hundred Sixty-Eight Billion, One Hundred Ninety-Four Million and Four Hundred Thousand Only) equivalent to 1,320,000,000 USD (In Words: One Billion Three Hundred and Twenty Million US Dollars) at the exchange rate of USD 1 = NPR 127.42 on August 18, 2022.

5.1.2 **Seti River-6:** In NPR 101,936,000,000 (In Words: Nepalese Rupees One Hundred One Billion and Nine Hundred Thirty-Six Million only) equivalent to 800,000,000 USD (In Words: Eight Hundred Million US Dollars) at the exchange rate of USD 1 = NPR 127.42 on August 18, 2022.

5.2 In accordance with the decisions of the Council of Ministers and as per provisions of the Act and Rules, NHPC, on or before NHPC's application for the Survey License for Generation Projects as per Clause 3.2.1, shall submit separate Performance Bonds for West Seti and for Seti River-6 equivalent to 0.5% of the total indicative costs of the respective Generation Projects as specified in Section 5.1, in the amounts as below:

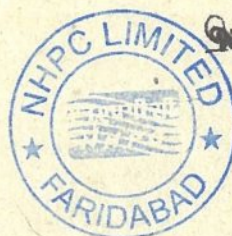
5.2.1 **West Seti:** NPR 840,972,000 (In Words: Nepalese Rupees Eight Hundred Forty Million and Nine Hundred Seventy-Two Thousand only)

5.2.2 **Seti River-6:** NPR 509,680,000 (In Words: Five Hundred Nine Million and Six Hundred Eighty Thousand only)

5.3 NHPC shall ensure that the Performance Bond shall be valid for additional 90 (ninety) days from the Final DPR submission date. In case of extension of this MoU, validity of the Performance Bond shall also be extended accordingly.

5.4 IBN shall release the Performance Bond within a period of 45 (forty-five) days upon the submission of the DPR to IBN's satisfaction.

5.5 IBN shall be entitled to invoke the Performance Bond if NHPC fails to submit the DPR to IBN as per the provisions of this MoU.



5.6 IBN shall release the Performance Bond within a period of 45 Days if termination of this MoU occurs on account of any event of default or breach not attributable to NHPC.

6. FREE ENERGY AND POWER

6.1 NHPC shall provide 21.9% of monthly generated power and energy from the Generation Projects (the "Free Energy and Power"), net of auxiliary consumption and transmission losses measured at the bus-bar, free of cost to the Government of Nepal from the date of commencement of commercial generation.

6.2 If the Generation Projects are not commercially viable, both the Parties shall discuss in good faith on further modalities including Section 6.1 for making the Generation Projects commercially viable.

6.3 Upon request by the Government of Nepal, NHPC shall make necessary arrangements to sell and market the Free Energy and Power in export market.

7. TRANSMISSION LINE

7.1 NHPC shall make necessary arrangements for the evacuation and transmission of energy generated from the Generation Projects. NHPC shall identify the transmission lines and pooling stations and prepare a separate chapter in the Detailed Project Report for the transmission lines. The planning of the evacuation and transmission system shall be aligned with the Transmission System Development Plan of Nepal.

7.2 The Survey License for Transmission Line shall be issued as per the prevailing laws of Nepal. NHPC shall comply with applicable laws, including but not limited to, Electricity Act, 2049 and Electricity Rules, 2050 and other relevant policies.

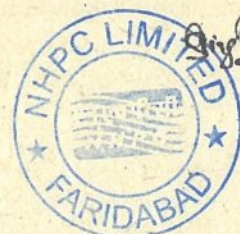
7.3 IBN shall facilitate for the approval of the Initial Environmental Examination ("IEE") as per the prevailing laws of Nepal for the transmission line.

8. POWER SALES ARRANGEMENT

8.1 NHPC shall be responsible for the transmission and sale of power generated from the Generation Projects through existing or proposed transmission lines from the respective powerhouse in Nepal to the export market.

8.2 In order to meet the domestic demand, the Government of Nepal shall have the option to request NHPC to sell the power generated from the Generation Projects in the domestic market before NHPC enters into a Power Sales Agreement to sell whole or part of the power generated from the Generation Projects in the export market.

9. EXCHANGE OF NOTICE AND AUTHORIZED REPRESENTATIVE



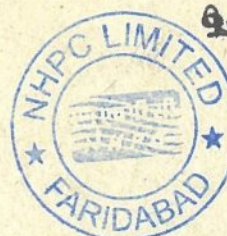
- 9.1 Any communication made or document given or sent by a Party to the other Party pursuant to this MoU must be in writing and shall be deemed to have been duly made or given or sent to the Party to which it is addressed at the time of its delivery by mail, facsimile, or hand-delivery, at the following addresses:

IBN	Office of the Investment Board Nepal
Designation	Chief Executive Officer
Address:	ICC Complex, New Baneshwor
Tel. No.:	977-1-4475277, 977-1-4475278
Facsimile No.	977-1-4475281
Email:	info@ibn.gov.np
NHPC	NHPC Limited
Designation	Chairman and Managing Director
Correspondence:	NHPC Office Complex, Sector-33, Faridabad, Haryana-121003
Tel. No.:	0129-2588110, 2588500 0129-2277941 (Fax)
Email:	webmaster@nhpc.nic.in

- 9.2 For the avoidance of doubt, notices shall not be sent by email. However, the Parties may share copies of issued notices by email.
- 9.3 For convenience on communication among the Parties, NHPC shall nominate its local representative in Nepal. Notice served to such local representative shall amount to communications.
- 9.4 A notice is deemed to be received:
- (A) in the case of a notice left at the address of the addressee, upon delivery at that address;
- (B) in the case of a posted letter, on the third (3rd) day after posting or, if posted to or from a place outside Nepal, the seventh (7th) day after posting; and in the case of a facsimile, on production of a transmission report from the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the recipient.
- 9.5 Either Party may change its address by prior notification to the other Party.
- 9.6 The Authorized Representative for the Parties shall be as follows:

For IBN: Office of the Investment Board ("**OIBN**"), or any person designated by OIBN and notified in writing to NHPC, shall represent IBN in matters related to this MoU.

For NHPC: NHPC, or any person designated by NHPC and notified in writing to IBN, shall represent NHPC in matters related to this MoU.



10. TERM AND TERMINATION

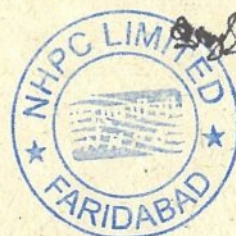
- 10.1 This MoU shall be effective from the MoU Date until the Term of the Survey License for Generation Projects, whichever is later.
- 10.2 In case IBN conveys that the submission of the DPR is not completed or IBN denies to acknowledge the submitted DPR or this MoU is terminated in accordance with the terms of this MoU or IBN terminates the MoU pursuant to Section 11 of this MoU or the Parties mutually agree to terminate this MoU, this MoU shall deem to be terminated.
- 10.3 The Term of this MoU may be extended:
- 10.3.1 in case of extension of the Term of the Survey License for Generation Projects under Section 3.2.4 of this MoU;
 - 10.3.2 for a reasonable period in the event of a Force Majeure Event; or
 - 10.3.3 upon mutual agreement of the Parties.

11. EVENT OF DEFAULT

- 11.1 Each of the following events shall be an event of default by NHPC (each an "**NHPC Event of Default**") which, if not cured within the time permitted, shall entitle IBN to terminate this MoU by giving a written termination notice to NHPC:
- 11.1.1 a breach by NHPC of the time schedule as set out in Schedule 2 of this MoU that is not remedied within thirty (30) days after delivery of written notice from IBN giving reasonable details of the breach by NHPC and demanding remedy thereof;
 - 11.1.2 the occurrence of any of the following events:
 - (A) the passing of a resolution by the shareholders of NHPC for the winding up of NHPC except in the case of a solvent restructuring;
 - (B) the voluntary filing by NHPC of a petition of bankruptcy, moratorium, or other similar relief; or
 - (C) NHPC entering into any agreement of merger, consolidation or amalgamation with any entity that has a material adverse effect on the preparation of the DPR.

12. TERMINATION CONSEQUENCES

- 12.1 This MoU shall terminate as per Sections 10 and 11 of this MoU.



12.2 If this MoU is terminated:

12.2.1 the Survey License for Generation Projects shall be *ipso facto* revoked;

12.2.2 all documents, updates, reports, and any other project-related documents prepared by NHPC shall be made available to IBN without any cost to IBN within 3 months from the termination of this MoU; and

12.2.3 all obligations of IBN under this MoU shall be terminated.

12.3 NHPC and its Representatives shall not have any claim whatsoever against IBN, IBN's Representatives or any Concerned Agency in relation to termination of this MoU.

13. REPRESENTATION AND WARRANTIES BY NHPC

13.1 NHPC represents and warrants to IBN that:

13.1.1 it is a company duly organized and validly existing under the laws of the Republic of India and has the requisite corporate power and authority to carry on its business as currently conducted with capacities to undertake all activities from conceptualization to commissioning in relation to the development of hydroelectric projects and their operations, except for matters reserved for decisions by the President of India, as per its Memorandum and Articles of Association;

13.1.2 it has full corporate power and authority to execute this MoU and to perform its obligations hereunder;

13.1.3 it has the financial standing and the capacity to perform its obligations under this MoU;

13.1.4 it has complied with the laws of Nepal in all material respects.

14. MISCELLANEOUS

14.1 NO REPRESENTATION BY IBN

IBN makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information in a Previous Study or the Previous Studies provided by it, and NHPC confirms that it shall have no claim whatsoever against IBN in this regard.

14.2 Novation, Assignment and Transfer

14.2.1 NHPC shall incorporate a subsidiary company in Nepal in the future for the implementation of the Generation Projects.



14.2.2 The company incorporated as per Section 14.2.1 can assume the rights and obligations of NHPC under this MoU.

14.2.3 Without prejudice to Sections 14.2.1 and 14.2.2, NHPC shall not (and shall procure that its parent and affiliated entities shall not), directly or indirectly, whether by way of merger, consolidation, sale of stock or otherwise: (A) sell; (B) assign; (C) transfer; (D) convey; (E) create any encumbrance; (F) subcontract or delegate (except where expressly permitted or contemplated by this MoU); (G) declare a trust in favor of a third party or declare itself a trustee for a third party; or (H) otherwise dispose of in any manner, the Generation Projects, this MoU or their respective benefits, interests, rights and obligations in, under, relating to, or in connection with the Generation Projects, or this MoU without obtaining IBN's prior written consent.

However, NHPC shall have right to transfer its rights and obligations set out under this MoU to a subsidiary entity of NHPC that is proposed to be created in Nepal as per Section 14.2.1 and subject to compliance with the requirements under the laws of Nepal, provided that in any such case the proposed assignee shall possess the legal capacity, power and authorization to become party to, and perform this MoU.

14.2.4 After incorporation of the subsidiary company in Nepal as per Section 14.2.1, NHPC shall make necessary provisions in the equity structure of the company for equity participation by local and general public as per the prevailing laws of Nepal. NHPC may make necessary provisions in the equity structure of the company for equity participation by domestic entities of Nepal.

14.2.5 IBN may freely assign or transfer its rights or obligations under this MoU without the prior written consent of NHPC to any Concerned Agency, provided that in any such case the proposed assignee possesses the legal capacity, power and authorization to become party to, and perform this MoU.

14.3 Governing Law and Dispute Resolution

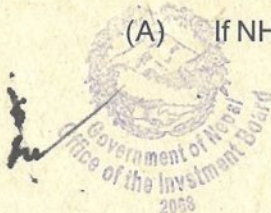
14.3.1 This MoU shall be governed and construed in accordance with the prevailing laws of Nepal.

14.3.2 Any disputes or disagreements arising out or in connection to this MoU shall be resolved amicably by the Parties through mutual understanding.

14.4 Amendments

14.4.1 The process for amendment of this MoU shall be as follows:

(A) If NHPC wishes to amend any Section or Schedule of this MoU, it must



submit a written request to IBN disclosing the rationale and basis for the proposed amendment.

(B) Based on the request, IBN may approve the amendment to the MoU.

14.4.2 This MoU may be amended by the mutual consent of the Parties if necessary.

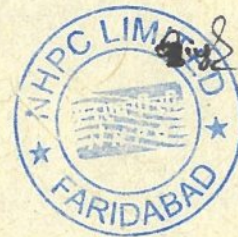
14.5 Language

This MoU is drafted in the English language. If this MoU is translated into any other language, the English language text shall prevail.

14.6 Counterparts

This MoU may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one MoU.

[This space is intentionally left blank. Signature Block to follow]



IN WITNESS WHEREOF, the Parties have entered into this MoU on the date stated at the beginning of it acting through their duly authorized representatives.

Signed for and on behalf of
Investment Board
Government of Nepal

Signed for and on behalf of
NHPC Limited



Signature: _____

Signature: _____

Name: Mr. Sushil Bhatta

Name: Mr. A. K. Singh

Title: Chief Executive Officer

Title: Chairman and Managing Director

Date: August 18, 2022

Date: August 18, 2022

Witnessed by: _____

Witnessed by: _____

Signature: _____

Signature: _____

Name: Mr. Amrit Lamsal

Name: Mr. V R Srivastava

Designation: Joint-Secretary

Designation: Executive Director
(SBD&C)

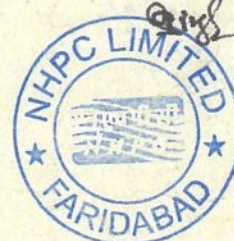
SCHEDULE 1: LIST OF PREVIOUS STUDIES

S.N.	Name of Previous Study	Date of Completion	Cost
1	Brief Study of Socio-Environmental Aspects of West Seti and Seti River-6 Storage Hydroelectric Project	February 2022	NPR. 19,00,000 ¹
2	Feasibility and Environmental Study of Seti River-6 Storage Project (the study conducted by Department of Electricity Development)	September 2021	NPR. 30,90,00,000 ²
3	Detailed Engineering Report of West Seti Hydroelectric Project (Volume I-XI)	December 1997	NPR. 1,20,00,000 ³
	Environmental Impact Assessment for West Seti Hydroelectric Project (Volume 3: Resettlement Plan: Reservoir Area and Downstream project Components)	October 2008 (Revision 4)	
	Environmental Assessment Report for West Seti Hydroelectric Project	August 2007	
	Resettlement Planning Document (Vulnerable community development plan) for West Seti Hydroelectric Project	November 2008	
	EIA Report for West Seti Hydroelectric Project (Volume I-VII)	April 2000	
Total			NPR. 32,29,00,000

¹ Cost associated in conducting the study by IBN.

² Cost derived as per the Directives Relating to Licensing of Electricity Projects, 2075 B.S., approved by the Government of Nepal, Ministry of Energy, Water Resources and Irrigation.

³ See Footnote 2.



SCHEDULE 2: WORK PLAN AND TIME SCHEDULE

S. N.	Deliverables	Timeline
1.	Application for Survey License for Generation Projects	<p>West Seti: No later than forty-five (45) days after the MoU Date.</p> <p>Seti River-6: No later than six (6) months after the MoU Date.</p>
2.	Inception Report	Within 3 (three) months from the Issuance of Survey License for Generation Projects
3.	Draft Detailed Project Report (DPR) along with relevant Environmental Studies	Within 20 (twenty) months from the issuance of Survey License for Generation Projects
4.	Final Detailed Project Report (DPR) along with environmental studies	Within 24 (twenty-four) months from the issuance of Survey License for Generation Projects/Three months from the receipt of comments on draft DPR by IBN
5.	Progress Report	Within 7 (seven) days following the end of each two-month period as per the Gregorian calendar.



SCHEDULE 3: FORM OF PERFORMANCE BOND

Investment Board, Government of Nepal ("IBN")

New Baneshwor, Kathmandu, Nepal

Re: Bank Guarantee (Performance Bond) No. [●]

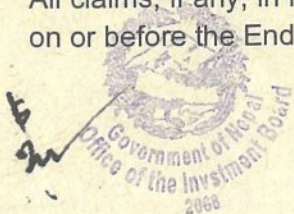
We have been informed that **NHPC Limited**, a company incorporated under the Companies Act, 1956 of the Republic of India having its registered office at (the "**Company**"), is entering into a Memorandum of Understanding ("**MoU**") with you (the "IBN") for the preparation of Detailed Project Report ("**DPR**") for the Project (as more particularly described in the MOU).

In accordance with the terms of the MoU, the Company is required to submit an unconditional and irrevocable, payable on-demand bank guarantee of NPR [*] (Nepalese Rupees [*] only), (the "**Security Amount**") to IBN for the due and faithful performance of Company's obligations under the MoU (the "**Performance Bond**") and we Kathmandu, Nepal (the "**Guarantor**") have at the request of the Company agreed to provide such Performance Bond, being this Bank Guarantee (Performance Bond) No. [●].

On your first written demand, stating that either (a) the Company is in breach or default of its obligations under the MOU, or (b) the Company has not extended or replaced this Performance Bond with another Performance Bond issued on the same terms at least fourteen (14) days prior to the End Date (as hereinafter defined), we, the Guarantor as primary obligor hereby expressly, unconditionally and irrevocably undertake to pay to IBN, without demur, reservation, protest and any reference to the Company or the MoU the amount specified in such demand, provided that the total of all demands shall not exceed the sum of the Security Amount i.e. NPR.....(Nepalese Rupees.....only). You shall not be required to prove or show grounds for your demand or the sum specified therein. It is clarified further that your demand shall be conclusive evidence to us that such payment is due under the terms of the MOU. It shall not be necessary, and the Guarantor hereby waives any necessity, for IBN to proceed against the Company before presenting to the Guarantor its demand under the Performance Bond.

The term of this Performance Bond shall commence on the date of its issuance and shall be valid until ninety (90) days after the final submission date of the DPR (the "**End Date**").

All claims, if any, in respect of this Performance Bond must be received by the Guarantor on or before the End Date.



This guarantee is subject to the Uniform Rules for Demand Guarantees ICC Publication No. 758, except that the provisions of Article 26 of the said Rules are hereby excluded from application, and shall be governed by and construed in accordance with the Laws of Nepal and will be subject to the jurisdiction of the courts of Nepal.

The Performance Bond shall not be affected by any change in the constitution of the Guarantor or of the Company.

Notwithstanding anything contained hereinabove:

(1) Our liability under this Bank Guarantee shall not exceed the Security Amount i.e. NPR..... (Nepalese Rupees Only)

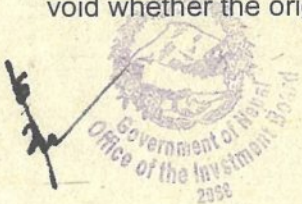
(2) Any demand may be brought by IBN under this Bank Guarantee up to close of business on the End Date.

(3) We shall be liable to pay any amount under this Bank Guarantee or part thereof only if we receive a claim or demand in writing within banking hours at our Kathmandu, Nepal or if such branch is not operating, at another branch in Kathmandu, Nepal, on or before the End Date and if no such demand has been received by us by that time and date, all rights to bring any demand under this guarantee will cease.

Notwithstanding anything contained in sub-section (2) and (3) above, all claims made by IBN on or before the End Date shall, subject to sub-section (1) above, be honored by the Guarantor where payment in respect of such demands have not been made by the End Date.

This guarantee (or any of its proceeds) is not assignable and is not transferable in whole or in part.

Upon payment by the Guarantor in respect of all claims or demands made IBN under this Bank Guarantee on or before the End Date, this guarantee automatically becomes null and void whether the original has been returned to us.



SCHEDULE 4: PERMITTED ACTIVITIES

1. Correspondence, discussions, liaison, interaction with various government agencies, ministries, departments, provincial and local governments, other associated consultants, agencies, and stakeholders including banks and financial institutions.
2. Obtaining all approvals and clearances from local, provincial, and federal government level.
3. Operation and running of the offices within Nepal.
4. Access to the Generation Projects' sites.
5. Selection and appointment of consultants and other human resources and skilled manpower for Generation Projects' related activities.
6. Interactions and discussions with the Generation Projects' affected people.
7. Rainfall data collection, sediment and discharge data collection at the Generation Projects' sites and collection of secondary data.
8. Preconstruction investigational works including survey, drilling, geophysical, and geotechnical exploratory drifts tunnel work within the Generation Projects' sites.
9. Collection of samples for construction materials.
10. Setting up of labs.
11. Testing of samples.
12. Opening and operation of Bank A/C in Nepal.
13. Hiring of various services, vehicles, buildings, office facilities, machineries and equipment as required from time to time.
14. Importing of requisite machinery/equipment as per the prevailing laws of Nepal.

