ANNEXURE 11

PURCHASE PRICE

1. Definitions

In this **Annexure 11**:

Assets shall have the meaning attributed to it in paragraph 3 of **Annexure 13**;

Completion Costs means the costs incurred or to be incurred by the Principal Agency to carry out the outstanding Building Works as certified by the Independent Consultant;

Compliant Condition means the Plant being in a condition complying with all of the following requirements:

(a) in compliance with the Design and Technical Specifications and all Laws;

(b) fit for the purposes of supplying Chilled Water Service to the Tenants and satisfy the Performance Requirements and pass the Performance Tests; and

(c) otherwise in accordance with the terms set out in this Agreement;

Consultancy Costs means the aggregate of the costs incurred or to be incurred by the Principal Agency in connection with the calculation of the relevant Purchase Price (including the determination of the Net Book Value of the Project, the Value of Completed Works and the Diminution Value) and includes the costs of the appointment of the Independent Auditor and the Independent Consultant;

Defect means any part of the Plant not being in a Compliant Condition;

Diminution Value means the diminution in the value of the Plant due to the existence of any Defect as determined by an Independent Consultant;

Final Report shall have the meaning attributed to it in paragraph 4(a) of this **Annexure 11**;

Independent Auditor means an independent auditor appointed by the Principal Agency to determine the Net Book Value of the Project and calculate the relevant Purchase Price;

Independent Consultant means an independent engineer, quantity surveyor, valuer or technical consultant appointed by the Principal Agency to determine or certify the Value of Completed Works, the Repair Costs, the Completion Costs and/or the Diminution Value;

Principal Agency Termination Costs A means:

(a) where the termination of this Agreement occurs during the Construction Period, the aggregate of:

    (i) the Completion Costs;

    (ii) the Consultancy Costs; and

    (iii) any amount that has fallen due and payable by the Concession Company to the Principal Agency (including any Delay Liquidated Damages and Abandonment Liquidated Damages);

(b) where the termination of this Agreement occurs during the Operating Period, the aggregate of:

(i) the Repair Costs or if the Principal Agency at its sole and absolute discretion elects not to carry out any part of the Repair Works, the Diminution Value;

(ii) the Consultancy Costs; and

(iii) any amount that has fallen due and payable by the Concession Company to the Principal Agency under or arising from this Agreement (including any Performance Liquidated Damages);

The Principal Agency Termination Costs B means the aggregate of:

(a) 50% of the Consultancy Costs; and

(b) any amount that has fallen due and payable by the Concession Company to the Principal Agency under or arising from this Agreement (including any Performance Liquidated Damages);

Net Book Value of the Project means the gross fixed assets of the Concession Company net of accumulated depreciation as determined by the Independent Auditor as at the Termination Date. For the purposes of this definition, **gross fixed assets** shall only mean property, plant and equipment;

Outstanding Indebtedness means the aggregate of all amounts (including the principal amount, accrued interest and default interest) owing to the Financing Parties (other than any amounts owing to the Shareholders and their respective Affiliates) as incurred by the Concession Company under the Financing Documents;

Payment Date means the date on which the Principal Agency pays the relevant Purchase Price under paragraph 4 of this **Annexure 11**;

Purchase Price means either Purchase Price A or Purchase Price B (as the case may be);

Purchase Price A shall have the meaning attributed to it in paragraph 2 of this **Annexure 11**;

Purchase Price B shall have the meaning attributed to it in paragraph 3 of this **Annexure 11**;

Repair Costs means the costs incurred or to be incurred by the Principal Agency to carry out the Repair Works as certified by the Independent Consultant;

Repair Works means the works of renewal, reconstruction, repair or reinstatement required in order to procure that the Plant will be in a Compliant Condition; and

Value of Completed Works means the value of the Building Works completed in accordance with the requirements of this Agreement as at the Termination Date as determined by the Independent Consultant having regard to the prices and rates as specified in the EPC Contract.

2. Termination due to Default by the Concession Company

If the Principal Agency terminates this Agreement pursuant to Clause 28.2 due to a Default by the Concession Company, then the Principal Agency shall be entitled to purchase all of the Concession Company's right, title and interest in the Project for:

(a) where such termination occurs during the Construction Period, a purchase price equal to the Value of the Completed Works less the relevant the Principal Agency Termination Costs A; or

(b) where such termination occurs during the Operating Period, a purchase price equal to the Net Book Value of the Project less the relevant the Principal Agency Termination Costs A,

("**Purchase Price A**")

provided that in the event the Value of the Completed Works or the Net Book Value of the Project (as the case may be) is equal to or less than the relevant the Principal Agency Termination Costs A, the Principal Agency shall have no obligation to make any payment to the Concession Company and if less, the Concession Company shall pay to the Principal Agency such difference within 30 Days from the date of a written notice from the Principal Agency demanding payment accompanied with the relevant certifications or reports issued by the Independent Auditor and the Independent Consultant setting out their respective determinations.

3. Termination due to Prolonged Force Majeure

If the Principal Agency terminates this Agreement pursuant to Clause 28.3 due to a prolonged Force Majeure, the Principal Agency shall purchase all of the Concession Company's right, title and interest in the Project for:

(a) where such termination occurs during the Construction Period, a purchase price equal to the Value of the Completed Works less the Principal Agency Termination Costs B; or

(b) where such termination occurs during the Operating Period, a purchase price equal to the Net Book Value of the Project less the Principal Agency Termination Costs B,

("**Purchase Price B**")

provided that in the event the Value of the Completed Works or the Net Book Value of the Project (as the case may be) is equal to or less than the Principal Agency Termination Costs B, the Principal Agency shall have no obligation to make any payment to the Concession Company and if less, the Concession Company shall pay to the Principal Agency such difference within 30 Days from the date of a written notice from the Principal Agency demanding payment accompanied with the relevant certifications or reports issued by the Independent Auditor and the Independent Consultant setting out their respective determinations.

4. Payment of Purchase Price

(a) The Principal Agency shall pay to the Concession Company the relevant Purchase Price not later than 30 Days from the date of issue by the Independent Auditor of its final report ("**Final Report**") on the computation of the relevant Purchase Price, provided that:

(i) to the extent that there shall be any Outstanding Indebtedness as at the Payment Date owing to the Financing Parties, the Principal Agency shall pay the relevant Purchase Price directly to the Financing Parties whose receipt shall be a good discharge of the Principal Agency's obligation to pay the Concession Company under this paragraph 4 and the relevant Purchase Price shall thereby be deemed to

have been paid to the Concession Company; and

(ii) if the relevant Purchase Price is higher than the Outstanding Indebtedness as at the Payment Date, such surplus shall be paid to the Concession Company.

(b) The Principal Agency shall be entitled to rely on the certificate of the Financing Parties (or their representative) as conclusive as to the Outstanding Indebtedness as at the Payment Date.

(c) The Principal Agency agrees that it shall procure the Independent Auditor to prepare the Final Report as soon as reasonably practicable but in any event not later than 3 Months from the Termination Date.

5. Set-off

In the event that:

(a) the Concession Company has failed to carry out any of its obligations under Clause 28.6, 28.8 or 28.9; and

(b) such failure results in a failure by the Concession Company to procure or effect the transfer of contracts, documents, rights, interest or items that are required to be transferred to the Principal Agency following termination of this Agreement,

then the Principal Agency may deduct from the amount of the relevant Purchase Price determined under this **Annexure 11**, an amount equal to the cost to the Principal Agency of procuring the relevant items and services that is in excess of the cost that the Principal Agency would have incurred in procuring those items and services if the Concession Company had complied with its obligations, provided always that the Principal Agency has exercised reasonable efforts in mitigating those additional costs.

6. Discharge of Encumbrances over the Project

The Concession Company shall do all things necessary to ensure that the Principal Agency obtains all rights, title and interest in the Project, the Plant and the Site free from any Encumbrances with effect on and from the Termination Date. Without limiting the generality of the foregoing and notwithstanding that no relevant Purchase Price is payable by the Principal Agency or the relevant Purchase Price paid by the Principal Agency is less than the Outstanding Indebtedness owing to the Financing Parties as at the Payment Date, the Concession Company shall procure that:

(a) the Financing Parties shall unconditionally release and discharge all Encumbrances on or over the Assets; and

(b) the Financing Parties shall sign all re-assignments, discharge of charge, agreements, and any other documents in a form reasonably required by the Principal Agency, and take all steps and actions reasonably required by the Principal Agency, to give effect to the transfer of all rights, title and interest in the Assets to the Principal Agency (or its nominee) free of Encumbrances.

7. Full and Final Settlement

(a) Any and all sums paid by the Principal Agency to the Concession Company or by the Concession Company to the Principal Agency under this **Annexure 11** shall be in full and final settlement of each party's rights and claims against the other for breaches

and/or termination of this Agreement and any other Project Agreement whether under contract, tort, restitution or otherwise but without prejudice to:

(i) any antecedent liability of either party to the other that arose prior to the Termination Date (but not from the termination itself) to the extent such liability has not already been taken into account in determining the relevant Purchase Price; and

(ii) any liability arising in respect of any breach by either party of their obligations under any of the Surviving Provisions which arises or continues after the Termination Date.

(b) If the relevant Purchase Price is zero or a negative number, the Concession Company hereby releases the Principal Agency from all liability to the Concession Company for breaches and/or termination of this Agreement and any other Project Agreement whether under contract, tort, restitution or otherwise save for:

(i) any antecedent liability of the Principal Agency which arose prior to the Termination Date (but not from the termination itself) to the extent such liability has not already been taken into account in determining the relevant Purchase Price; and

(ii) any liability arising in respect of any breach by either party of their obligations under any of the Surviving Provisions which arises or continues after the Termination Date.

8. Costs

The costs and/or expenses to be taken into account in the calculation of the relevant Purchase Price due pursuant to this **Annexure 11** shall only be such costs and/or expenses to the extent that they are reasonable and proper in quantum and shall have been or will be reasonably and properly incurred and shall only be counted once.

9. Expert Determination

Any dispute arising under this **Annexure 11** (including the determination of the relevant Purchase Price) shall be referred to an Expert for determination in accordance with Clause 30.7.