

# Gransolar



## ***Conolophus Project:***

*Renewable Energy Microgrid for Baltra and Santa Cruz islands,  
with 14.8MWp of photovoltaic generation and 40.9MWh of  
batteries accumulation capacity*

Galápagos - Ecuador

## **TEASER**

Financial Advisor:



January 2021

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## 1. Background

On September 3rd, 2018, Gransolar S.A. (“Gransolar”) presented to the Ministry of Energy and Non Renewable Natural Resources (*Ministerio de Energía y Recursos Naturales No Renovables*, from now on referred as the “MERNNR” or the “Grantor”) of the Republic of Ecuador, a Private Initiative (“PI”) proposing to execute it under a Public-Private Partnership scheme (“PPP”) for the planning, design, financing, construction, equipment, operation and maintenance of a Renewable Energy Microgrid for Baltra and Santa Cruz islands, with 14.8MWp of photovoltaic generation and 40.9MWh of batteries accumulation capacity, to be located in Galápagos National Park (“GNP”) (the “Project”). The main events occurred since the presentation of the PI are detailed below:

Date	Event
6-dec-18	The MERNNR informed Gransolar that the PI proposal was declared of public interest and requested, within 6 months counted from the date GNP gives permission for the development of the land studies, to submit the information required under the PPP Scheme Regulation ( <i>Reglamento del Régimen de Colaboración Público Privada</i> or the “Reglamento RCPP”) <sup>1</sup> to determine the legal, technical and economic viability of the PI.
15-feb-19	The MERNNR informed the Gransolar that the latter will be allowed by the GNP to access the area identified for the development of the Project.
16-aug-19	Gransolar presented to the MERNNR the required documentation to demonstrate the feasibility of the PI <sup>2</sup> from the technical, legal, financial, social, and environmental perspectives.
18-nov-19	The MERNNR informed Gransolar its decision to execute the project under the Organic Law of Electric Energy Public Service ( <i>Ley Orgánica del Servicio Público de Energía Eléctrica</i> or “LOSPEE” <sup>3</sup> ) instead of the Organic Law of Incentives for Public Private Partnerships and Foreign Investment ( <i>Ley Orgánica de Incentivos para Asociaciones Público Privadas e Inversión Extranjera</i> or “LOAPP”) as proposed by Gransolar, basically because the MERNNR considered that the tender process could be initiated much faster under the LOSPEE.
28-feb-20	The MERNNR informed Gransolar that it considered that the Project is feasible and confirmed its decision to execute the project under the LOSPEE.
16-jun-20	The MERNNR called the public tender (“Proceso Público de Selección” or “PPS”) to award a concession contract (“Título Habilitante” or “Concession Contract”) to a private investor for the execution of the Project and a Power Purchase Agreement (“Contrato Regulado” or “PPA”) that the Concessionaire (as defined later) will sign with each of the electricity distribution and commercialization companies of the country (the “Distributors” or the “Offtakers”). The PPA will be the Concessionaire’s source of revenues. The MERNNR named the Project as Conolophus.
10-jul-20	Gransolar and Total Eren S.A. (“Total Eren” and together with Gransolar from now on referred as the “Sponsors”) signed a Joint Development Agreement, deciding to participate as a consortium in the PPS with a participation of 50% each one in the consortium.
17-aug-20	The MERNNR issued the PPS prequalification process results, in which the Sponsors prequalified.
15-sep-20	Technical visit of the prequalified bidders to the Project site.
5-oct-20	The Sponsors sent the MERNNR their comments and questions about the PPS rules, forms, Concession Contract draft, and PPA draft.
4-jan-21	The MERNNR finished answering the comments and questions from the prequalified bidders.

Currently, the Sponsors and their advisors are updating the assumptions (technical, legal, financial, social, environmental) to be used for the PPS. The purpose of this document is to present updated information about the Project to potential lenders to confirm their interest in it, and to request their indicative terms and conditions for the Project financing.

## 2. The Project

The Project will be located in the Galapagos Archipelago, with components on the Baltra and Santa Cruz islands, in areas property of the Ecuadorian Army, GNP, and ELEGALÁPAGOS (the public electricity generation and distribution company of the Galapagos Islands). It consists of creating a Microgrid where a 14.8 MWp photovoltaic plant, a 40.9 MWh batteries system and controllers will be installed to be able to integrate all the energy generated with the different sources currently used on the islands (diesel, wind and photovoltaic).

<sup>1</sup> Executive Decree 582 published in the Official Registry 453 on March 6th, 2015.

<sup>2</sup> In accordance with Art.9 of the Reglamento RCPP.

<sup>3</sup> Official Registry 418 on January 16<sup>th</sup>, 2015

This integration will maximize the penetration of renewable energy, which will supply up to seventy percent (70%) of the energy demand on the Santa Cruz island. Consequently, the Project will reduce the negative impact of diesel consumption (it's expected an annual saving of approximately 1.6 million barrels of premium diesel for the country, plus the transport costs and maintenance of current thermal generation systems), promote the sustainable development of the Galápagos Archipelago, and contribute to the protection and conservation of the environment.

#### PROJECT LOCATION



Source: Image found on Google.

The Project will have the following main components:

- **Photovoltaic Plant:** It will have a nominal power of 14.8 MWp +/- 2% and will be constructed on the Baltra island in an area of approximately 35 hectares, where an old airstrip is located. The poles of the 34.5 kV subtransmission line of the Baltra-Santa Cruz Interconnection System are installed within the airstrip along its entire length. The Concessionaire will be responsible for operating and maintaining the Photovoltaic Plant.
- **Conolophus Substation:** It will be the point of connection of the photovoltaic plant with the existing electrical system. It will be installed on the Baltra island in an area of approximately 0.5 hectares, at the north end of the old airstrip where the photovoltaic plant will be constructed.
- **Battery Energy Storage System ("BESS"):** It will have a minimum total effective capacity of 40.9 MWh of energy delivered in low voltage alternating current and will be divided into two locations:
  - Amount of MWh to be proposed by the bidders in the PPS, on the Baltra island as part of the Photovoltaic Plant; and
  - 7 MWh +/- 5% in the southern part of the Santa Cruz island, in an area of approximately 0.33 hectares on the premises of the Puerto Ayora Photovoltaic Plant. A 13.8 kV underground line with an approximate length of 0.7 km will have to be installed to connect the BESS in Puerto Ayora to the Santa Cruz Substation. The Concessionaire will be responsible for operating and maintaining the mentioned interconnection line since it is considered part of the BESS plant in Puerto Ayora.
- **Second Circuit of the Baltra-Santa Cruz Interconnection System:** It comprises the installation of a second circuit of the existing 34.5 kV subtransmission line of the Baltra-Santa Cruz Interconnection System, between the Conolophus Substation and the existing Santa Cruz Substations, with an approximate length of 44 Km (includes aerial, underwater and underground lines). Its purpose is to increase the reliability of the interconnection system of the two islands, considering that the photovoltaic plant (Baltra island) will be relatively distant from the Puerto Ayora town energy demand (southern part of the Santa Cruz island). ELECGALAPAGOS has easement rights throughout the section of the Baltra - Santa Cruz subtransmission line. These easement rights include the installation of the second circuit, therefore no additional easement imposition is required.

- **Microgrid:** It will integrate all the existing and future generation plants of any kind, energy storage systems, and the distribution system recloser equipment of the Baltra and Santa Cruz islands, through a Central Control System (“CCS”). The CCS will have hardware, software, and an algorithm that maintain the stability of the electrical system while performing optimal dispatch to minimize diesel consumption and operating costs, and maximize renewable energy generation.

Up to one hundred and eighty (180) days after the start of commercial operations, the Concessionaire will transfer to ELECGALÁPAGOS at no cost the Conolophus Substation, the Second Circuit of the Baltra-Santa Cruz Interconnection System and the Microgrid CCS, as will be established in the Connection Contract. The operation and maintenance of these assets will be in charge of ELECGALÁPAGOS, except for the maintenance of the Microgrid CCS that will be in charge of the Concessionaire, as established in the Technical Specifications.

The Sponsors have estimated that the Project will be constructed in 24 months and its investment cost will be approximately fifty million dollars of the United States of America (USD 50 million), including Value-Added Tax (“VAT”) with certain tax benefits and not including the financial cost during the construction period.

After the construction period, the Project will sell all its generated energy to the Distributors under the PPAs that will have the same term as the Concession Contract, 25 years from its signing date. The estimated annual energy generation of the Project for the first complete year is approximately 24 GWh under a scenario of 50% probability of exceeding power generation (P50).

### 3. Key Project Participants

#### 3.1. The Sponsors

##### **GRANSOLAR**

Gransolar is an Ecuadorian company whose objective is to develop, direct and execute electric generation projects with renewable energy sources, particularly photovoltaic. Gransolar was established on May 10th, 2012 with the purpose of developing, installing and operating two solar energy generation projects called *Salinas* and *Tren Salinas* that compound one photovoltaic plant with an aggregate installed capacity of 3.6 MW, located in the Provincia de Imbabura, Cantón Urquiquí, sector El Salado, Ecuador. Gransolar is the largest and most efficient photovoltaic generator in the country.

On July 19, 2014 Gransolar initiated operations and, since then, it has maintained a stable revenue generation, good profitability, and has been accomplishing its debt service as expected, having a low leverage position as of December/19 as follows:

Financial Highlights (USD Thousands)	2014	2015	2016	2017	2018	2019
<b>Revenues</b>	<b>1.056</b>	<b>2.334</b>	<b>2.366</b>	<b>2.260</b>	<b>2.326</b>	<b>2.285</b>
EBITDA	476	1.577	1.597	1.569	1.570	1.568
Net Income	(19)	644	713	678	763	444
Total Liabilities	6.944	5.939	5.486	5.146	4.521	4.118
Equity	2.862	3.507	3.639	3.676	3.831	3.529
<b>Total Assets</b>	<b>9.806</b>	<b>9.446</b>	<b>9.126</b>	<b>8.822</b>	<b>8.351</b>	<b>7.648</b>
<b>Revenues</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
EBITDA	45%	68%	67%	69%	67%	69%
Net Income	-2%	28%	30%	30%	33%	19%
Total Liabilities	71%	63%	60%	58%	54%	54%
Equity	29%	37%	40%	42%	46%	46%
<b>Total Assets</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Audited Financial Statements 2014-2019 (Deloitte)

Gransolar’s main shareholders are businesspeople with an extensive experience in various sectors of the country's economy, such as commerce, engineering services, growing roses, tourism, and insurances.

## TOTAL EREN

Total Eren is a global Independent Power Producer (“IPP”) whose objective is to develop, execute and operate electric generation projects with renewable energy sources, particularly solar, wind and hydro. Total Eren is a controlled subsidiary of EREN Group, a group dedicated to natural resource efficiency. The company was founded in 2012 by Pâris Mouratoglou and David Corchia, respectively founder and ex-CEO of EDF Energies Nouvelles. Total Eren has a vast experience and expertise developing new renewable energy projects around the world. As of today, it owns 100 power plants in operation or under construction in more than 17 countries, accounting more than 3,300 MW of renewable energy assets. It also has more than 2,000 MW of projects under development spread out over the 5 continents. The projects carried out in Latin America are the following:

- In Operations:
  - BJL 11: 25 MWp solar power plant located in the state of Bahia, Brazil, and the first project to be commissioned by Total Eren in the country.
  - Dracena I, II and IV: Three solar photovoltaic power plants of 30 MWp each, located in the municipality of Dracena, Brazil. This project provides enough electricity to supply 83,000 homes.
  - Caldenes del Oeste: 30 MWp solar farm located in San Luis province, Argentina. This project generates enough energy to meet the demands of 17,000 homes.
- Under Construction:
  - Vientos Los Hercules: 97.2MW wind farm owned 66% by Total Eren, located in the province of Santa Cruz in Argentina with a COD scheduled in Q4 2020.
  - Malaspina: 50.4MW wind farm owned 100% by Total Eren, located in the province of Chubut in Argentina with a COD scheduled in Q4 2020.
  - Santa Isabel: 190MWp solar farm owned 50% by Total Eren located in Tocopilla province in Chile with a COD scheduled in Q1 21.
  - Tera Santa: 92.3MW wind farm owned 100% by Total Eren located in Brazil with a COD scheduled in Q2 2021.
  - Maral: 67.5MW wind farm owned 100% by Total Eren located in Brazil with a COD scheduled in Q3 2021.

Financial Highlights (EUR Thousands)	2015	2016	2017	2018	2019
<b>Revenues</b>	<b>51.625</b>	<b>82.590</b>	<b>76.994</b>	<b>99.427</b>	<b>269.911</b>
EBITDA	27.606	40.928	51.300	66.342	191.546
Net Income	8.757	10.176	7.390	11.902	36.076
 Total Liabilities	 301.391	 384.710	 435.758	 835.449	 2.393.112
Equity	320.383	305.299	467.577	519.996	1.167.252
<b>Total Assets</b>	<b>621.774</b>	<b>690.009</b>	<b>903.335</b>	<b>1.355.445</b>	<b>3.560.364</b>
 <b>Revenues</b>	 <b>100%</b>	 <b>100%</b>	 <b>100%</b>	 <b>100%</b>	 <b>100%</b>
EBITDA	53%	50%	67%	67%	71%
Net Income	17%	12%	10%	12%	13%
 Total Liabilities	 48%	 56%	 48%	 62%	 67%
Equity	52%	44%	52%	38%	33%
<b>Total Assets</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Audited Financial Statements 2015-2019 (Alain Martin & Associés)

Between 2015 and 2019, Total Eren revenue increased by a compounded annual growth rate of 51.21%:

- In 2016, Total Eren overall energy generation from consolidated assets almost doubled compared to 2015, as a consequence of the installation of all the modules and reach of full capacity of the Solaire Habitat Social plants, the first full year of operation

and production of the Israeli Hazeva PV plant and the Greek project Maristi, the start of operations of the Ptoon wind farm and the acquisition of Winch. This led to an increase in revenues in 2016 of 59.98%.

- In 2019, Total Eren overall energy generation from consolidated assets almost tripled, compared to 2018, as a consequence of the acquisition of NovEnergia, as well as the start of operation of several large projects. This led to an increase in revenues in 2019 of 171.47%. NovEnergia is a diversified renewable IPP, which holds a diversified portfolio of wind, solar and minihydro power plants representing a total net installed capacity of 658 MW and 47 fully operating assets in Europe.

The company presents a growing tendency in EBITDA during the period 2015-2019 and a relatively stable Net Income/Revenues.

In September 2017, EREN Groupe and Total signed a strategic agreement to accelerate the development of EREN Renewable Energy worldwide. In particular, the agreement allows the Sponsor to: (i) secure medium-term equity needs to deliver EREN RE's growth plan, (ii) preserve operational flexibility through internal management, (iii) leverage strategic benefits of a partnership between two dominant players in the global energy industry (company became "Total Eren" in Dec. 1<sup>st</sup>, 2017), (iv) Develop wind energy worldwide and PV in its strategic zones: Africa, Latin America and most of Asia Pacific.

In 2018, Total Eren increased its investments in property, plant and equipment because of the construction of new plants in Brazil, Australia, among others, which led to the increase of leverage. By 2019, Total Eren has an adequate leverage position.

Total Eren's strategy:

- Positioning as IPP: Long-term project owner with planned long-term presence in selected countries.
- Early involvement in project development: in order to ensure quality product delivery at ready-to-built stage with minimal execution risk.
- Partnerships with local developers: that have a deep understanding of local energy markets and key stakeholders.
- Use of mature and reliable technologies: onshore wind and solar PV.
- Focus on countries that feature:
  - Good resources (solar irradiation & wind speed)
  - A need to build a more independent energy mix and grow the generation capacity
  - Political support to develop renewable capacity
  - Potential to reach critical size and large installed capacity base
- Funding of projects with no- or limited-resource financing:
  - Extensive project financing expertise
  - Longstanding relationships with multilateral institutions as well as development and commercial banks

### 3.2. The EPC Contractor and the O&M Contractor

The selection of the EPC Contractor and the O&M Contractor is still pending, but Lenders are being ask to express their interest on the assumption that (i) both contractors will have sufficient experience and financial strength to assume their respective contracts; and (ii) their respective contracts will mirror the relevant obligations of the Concessionaire established in the Concession Contract, the PPA, and the Connection Contract.

### 3.3. The Grantor

The MERNNR was constituted by Executive Decree N° 399 dated May 15th, 2018, by the merger of the following institutions, assuming all its powers and functions: *Ministerio de Hidrocarburos, Ministerio de Electricidad y Energía Renovable, Ministerio de Minería y Secretaría de Hidrocarburos.*

### 3.4. The Offtakers

The Distributors are the legal persons whose *Título Habilitante* empowers to carry out the activity of distribution and commercialization of electrical energy and the general public lighting, within their service area. The Distributors are governed by private law and belong almost entirely to public sector entities, mainly the MERNNR and the Decentralized Autonomous Governments (*Gobiernos Autónomos Descentralizados* or "GAD").

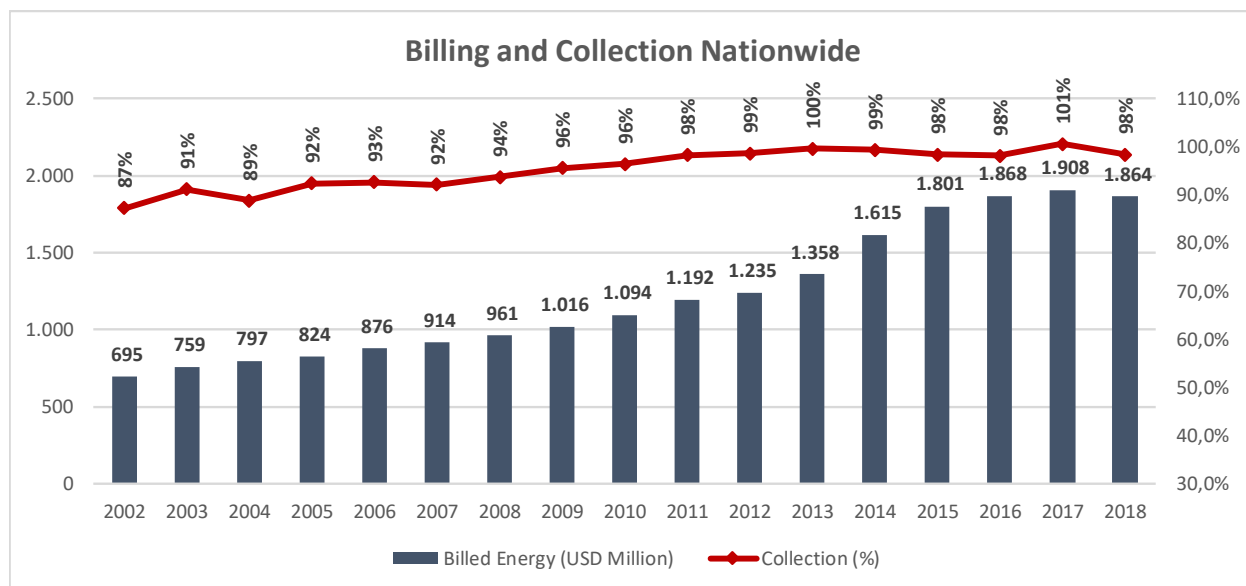


The LOSPEE establishes that legal persons engaged in generation activity, such as the Concessionaire, have the obligation to sign PPAs with the Distributors, in proportion to their regulated demand. Therefore, the Concessionaire will sign PPAs with all the Distributors of the SNI in Ecuador, although the Project will only deliver energy to the Baltra and Santa Cruz islands. There are ten (10) Distributors in Ecuador, being the biggest ones CNEL EP, E.E. Quito, and E.E. Centro Sur (the three represented 87% of billed energy in 2018), as shown in the following table:

Distributor	Number of Users	Billed Energy (GWh)	Billed Energy (USD Million)	Collected Energy (USD Million)	Collection (%)	Market Share Billed Energy (USD Million)
CNEL EP	2.542.045	12.920	1.132	1.126	99%	60,7%
E.E. Quito	1.144.951	4.378	376	353	94%	20,2%
E.E. Centro sur	393.953	1.079	105	102	97%	5,6%
E.E. Ambato	271.851	658	63	63	99%	3,4%
E.E. Cotopaxi	142.019	579	47	49	106%	2,5%
E.E. Norte	245.805	568	56	57	100%	3,0%
E.E. Riobamba	173.107	368	34	34	99%	1,8%
E.E. Sur	204.194	345	36	37	103%	1,9%
E.E. Azogues	37.436	109	8	8	102%	0,4%
E.E. Galápagos	12.484	51	6	5	99%	0,3%
<b>Total</b>	<b>5.167.845</b>	<b>21.055</b>	<b>1.864</b>	<b>1.835</b>	<b>98%</b>	<b>100,0%</b>

Source: Plan Maestro de Electrificación 2019-2027, MERNNR

The percentage of collection of annual energy sales from Distributors to final users nationwide has been higher than 87% for the period 2002-2018 (17 years), with an average of 95%, as shown in the following graph:



Source: Plan Maestro de Electrificación 2019-2027, MERNNR

### 3.5. The Electricity National Operator and The Isolated Systems Operator

The corporation Energy National Center (*Centro Nacional de Energía* or “CENACE”) was constituted by the Electricity Sector Regime Law, published in the Official Gazette Supplement No. 43 of October 10, 1996, and modified later by the LOSPEE, assigning CENACE a new legal nature, powers and duties as the Electricity National Operator, a technical and strategic organism attached to the MERNNR. CENACE is the technical operator of the Interconnected National System (*Sistema Nacional Interconectado* or “SNI”) and commercial administrator of the transactions of energy blocks, responsible for the continuous supply of electrical energy at the lowest possible cost, preserving the overall efficiency of the sector.

The *Empresa Eléctrica Provincial Galápagos* (“ELEGALÁPAGOS”) was constituted November 9<sup>th</sup>, 1998. It is the Galápagos provincial electric company, which according to its *Título Habilitante* is empowered to carry out the activities of generation, transmission, distribution and commercialization of electric energy in the Galápagos Island Province. Additionally, it performs the functions of Operator of the Isolated Systems found in the Galapagos Islands. ELEGALÁPAGOS belongs to the MERNNR.

### 3.6. The Regulator

The Agency for Regulation and Control of Electricity (*Agencia de Regulación y Control de Electricidad* or “ARCONEL”) was constituted by the LOSPEE as the technical and administrative organism in charge of regulating and controlling activities related to the public services of electric energy and general public lighting, protecting the interests of the consumer or end user.

On May 6<sup>th</sup>, 2020, the Executive Decree 1036 established the merger of ARCONEL, the Agency for Regulation and Control of Mining (*Agencia de Regulación y Control Minero*), and the Agency for Regulation and Control of Hydrocarbons (*Agencia de Regulación y Control de Hidrocarburos*) in one new entity denominated Agency for Regulation and Control of Energy and Non-Renewable Natural Resources (*Agencia de Regulación y Control de Energía y Recursos Naturales No Renovables* or “ARCERNR”).

## 4. The Tender (*Proceso Público de Selección* or PPS)

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On August 17<sup>th</sup>, 2020 the MERNNR published the following list of prequalified bidders enabled to participate in the PPS:

- Canadian Solar Conolophus.
- Gransolar-Total EREN.
- Valtalia S.A.
- Woojin Industrial Systems.
- Scatec Solar – Energy Flex.

Any interested prequalified bidder will deliver its offer in two sealed envelopes:

- Technical Offer (Envelope 1): This will include declarations, technical specifications of the Project to be executed, the Project execution schedule proposed by the bidder, energy generation study, a descriptive document indicating the technical solution for each component of the Project, and a bid bond of USD 1 million.
- Economic Offer (Envelope 2): This will include the energy price expressed in USD/MWh with two decimals and without taxes, and the estimated CAPEX and OPEX for the Project. The CAPEX will be used to calculate the performance bond in the Concession Contract and the OPEX is only for the MERNNR’s reference.

The winner of the PPS will be the prequalified bidder that present (i) a qualifying Technical Offer and (ii) the lowest energy price in the Economic Offer, provided that said price is lower than a maximum energy price that will be established by the MERNNR (the “Reserve Price”) and revealed to the bidders when the Envelopes 2 are opened.

Because Gransolar is the proponent of the PI, after the opening of Envelope 2 and only once, the consortium of the Sponsors will have the right to improve its economic offer by at least 2% to the Economic Offer that has the lowest energy price (swiss challenge).

In case of a tie in the energy price, the winner will be the bidder that presents the shorter construction time in the Project execution schedule presented in the Envelope 1. In case of a tie in the construction time, the winner will be the bidder that presents the smaller required area to construct the photovoltaic plant presented in the Envelope 1.

The winner of the PPS will have to constitute a specific purpose company (the “Concessionaire”), which will sign the Concession Contract with the Grantor, sign the PPAs with the Distributors, and execute the Project.

Currently, the PPS schedule has the following main expected milestones:

Date	Milestone
5-mar-21	Offers presentation by the prequalified bidders and opening of Technical Offers (Envelope 1).
23-apr-21	Qualification of Technical Offers.
26-apr-21	Opening of Economic Offers (Envelope 2).
3-may-21	Award of the Concession Contract and the PPA or desert recommendation from Technical Commission.

Documents not available yet with the PPS rules:

- Trust Agreement for the Administration of Payments of Obligations of Electricity Distribution and Commercialization Companies (see The PPA section). The MERNNR has indicated that the Trust will be constituted before the subscription of the Concession Contract.
- Connection Contract to be celebrated between the Concessionaire and ELECGALÁPAGOS.
- Documents that prove the land use rights that the Grantor will provide to the Concessionaire. The Project will be located in areas property of the Ecuadorian Army, GNP, and ELECGALÁPAGOS.
- Environmental Impact Assessment (“EIA”) and Environmental Management Plan (“EMP”) to be prepared by ELECGALÁPAGOS as indicated in the technical visit. This document is necessary for the environmental license for the Project that will be obtained by ELECGALÁPAGOS and provided to the Concessionaire, as also indicated in the technical visit. The MERNNR has offered a preliminary version of the EIA and the EMP by the end of february, 2021.

## 5. The Concession Contract or *Título Habilitante*

This section contains a summary about the Concession Contract terms. Please refer to Annex II of this Teaser for more details.

### General Terms

- The LOSPEE provides that the bidder who is selected from the PPS has the right to be granted the respective *Título Habilitante*, and for his part, this bidder is obliged to sign the respective PPAs, based on the price presented in the offer.
- Object: To give the concession to the Concessionaire to execute the Project.
- The MERNNR has the obligation to sign the Connection Contract (through ELECGALAPAGOS) and the PPAs (through the Distributors) with the Concessionaire.
- The revenues of the Concessionaire will come from the PPAs that it will sign with all the Distributors. The Concessionaire will receive its revenues in USD.
- The term of the Concession Contract will be twenty five (25) years from its signing date.
- The Project will be developed according to the document presented by the Concessionaire in the PPS containing the detail of the Project execution activities, the deadline to fulfill them, and the control milestones (including the financial closing) proposed by the Concessionaire (the “Execution Schedule”).
- ARCERNNR will be the administrator of the Concession Contract (the “Administrator”).
- The Concessionaire's equity must have the same shareholders participation percentages to the ones presented by the awardee in the prequalification of the PPS, including the legal person nominated by it with a minimum ownership of 25% of its shares (the “Strategic Partner”).

### Lenders’ Rights

- Prior consent from Lenders to permit the following actions from the Concessionaire:
  - The consent of the Concessionaire to the early termination of the Concession Contract by mutual agreement;
  - The consent of the Concessionaire to any modification or addendum to the Concession Contract; and
  - The delivery to the Grantor of any request to change the Strategic Partner, Notice of Cause for Termination, Notice of Termination or request for revision of contractual conditions.
- Pledge on the Concesionaire’s shares.
- Remedy any breach of contract from the Concessionaire to avoid the early termination of the contract.
- Receive a simultaneous copy of all relevant communications from the MERNNR or the Administrator to the Concessionaire.

### Economic-Financial Equilibrium

The Concessionaire may request the revision of the Concession Contract to reestablish the economic-financial equilibrium, in case there are changes in economic, legal, or other conditions, including a change in law that: (a) are not attributable to the Concessionaire,

(b) are extraordinary and unforeseen and (c) result in excessive onerousness in the compliance of the Concession Contract for the Concessionaire.

### **Termination of the Concession Contract**

The termination of the Concession Contract may be declared in the following cases:

1. If the object of the Concession Contract (the execution of the Project) has been fulfilled.
2. Expiration of the term of the Concession Contract.
3. Mutual agreement of the parties.
4. Expiration declared by the Grantor due to breach from the Concessionaire. The Concessionaire will have forty five (45) days to prove its fulfillment of the Concession Contract and then a cure period of sixty (60) days.
5. Rescission.
6. Resignation of the Concessionaire.
7. Bankruptcy of the Concessionaire.
8. Force Majeure of Fortuitous Event with a continuous duration of more than one hundred and eighty (180) days.
9. Causes attributable to the Grantor or to another Government Authority. Cure period: Between sixty (60) and one hundred twenty (120) business days.

The effects of early termination of the Concession Contract depend on the cause of termination, as follows:

1. Expiration declared by the Grantor, rescission, resignation of the Concessionaire, bankruptcy of the Concessionaire or Force Majeure or Fortuitous Event<sup>4</sup>: The new concessionaire resulting from a new tender for the concession will acquire the obligation to honor the Secured Debt, assuming the position of debtor before the Lenders.
2. Mutual agreement of the parties: The Grantor will compensate the Concessionaire by paying the amounts of the Secured Debt (principal, interests, and breaking costs) and equity that have not yet been paid or reimbursed in accordance with what is established in the Secured Debt documents.
3. Causes attributable to the Grantor or other Government Authority: The Grantor will compensate the Concessionaire by paying the amounts of the Secured Debt (principal, interests, and breaking costs)<sup>5</sup> and equity that have not yet been paid or reimbursed in accordance with what is established in the Secured Debt documents. Additionally, the Grantor will recognize the following to the Concessionaire:
  - a. Payments for dismissal of employees of the Concessionaire as a direct result of the termination of the Concession Contract;
  - b. Costs for early termination of contracts with the Concessionaire's subcontractors; and
  - c. Any unpaid invoice or charge resulting from the settlement of the PPAs on the termination date.

Link between termination of the Concession Contract and the PPAs:

- If a PPA has an early termination for causes attributable to the Distributor or by Force Majeure or Fortuitous Event, the Contracted Energy of such PPA will be redistributed among the rest of the PPAs, applying the Settlement Factor. The early termination of any PPA will not affect the term of the Concession Contract and will not give the Concessionaire an early termination payment from the respective Distributor.
- If the Concession Contract has an early termination, this will cause an early termination of all the PPAs. In this case, any termination payment will come only from the MERNNR under the Concession Contract, not from the PPAs.

### **Disputes Resolution Mechanisms**

- Direct negotiation;
- Friendly Conciliation Solution;
- Mediation; and
- Arbitration (Santiago de Chile).

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<sup>4</sup> When the Force Majeure or Fortuitous Event is caused by acts or omissions of a Government Authority, it will be considered as termination for cause attributable to Government Authority for the purposes of determining the effects of the early termination.

<sup>5</sup> Deducting any benefits derived from the termination of the hedging agreements of the loan contracts, any insurance proceeds that have been received, and any other sum recovered by the Lenders before the date of payment of the compensation for termination

## 6. The Power Purchase Agreement (PPA)

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This section contains a summary about the PPA terms. Please refer to Annex III of this Teaser for more details.

### General Terms

- The LOSPEE establishes that legal persons engaged in generation activity, such as the Concessionaire, have the obligation to sign PPAs with the Distributors, in proportion to their regulated demand. Therefore, the Concessionaire will sign PPAs with all the Distributors of the SNI in Ecuador, although the Project will only deliver energy to the Baltra and Santa Cruz islands.
- The MERNNR has published a PPA draft as part of the tender documents. The Concessionaire will sign this same PPA model with each of the Distributors.
- The PPAs will have the same tenor of the Concession Contract.

### Revenues of the Concessionaire

The revenues of the Concessionaire will come on a monthly basis from the PPAs and will be composed of two parts:

1. A **“Fixed Charge”** that will remunerate the Concessionaire for the availability or firm energy contribution of the Project. For each PPA, the Fixed Charge:
  - Will be determined as an annual amount (to be divided by 12) calculated as follows:
    - Seventy percent (70%) of the energy price included in the Economic Offer awarded in the PPS, expressed in USD/MWh; multiplied by
    - 23,795 MWh (the “Annual Average Energy”).
  - Will correspond sixty percent (60%) to the Photovoltaic Plant and forty percent (40%) to the BESS.
  - Will be recognized proportionally to the availability of the Photovoltaic Plant and the BESS.
  - Will be multiplied by a settlement factor (the “Settlement Factor”) to assign the part of the Fixed Charge correspondent to each Distributor. The Settlement Factor is defined in the PPA as, for each month, the relationship between the Regulated Demand<sup>6</sup> of a Distributor and the sum of the Regulated Demands of all the Distributors with which the Concessionaire has current PPAs<sup>7</sup>, multiplied by the factor for the application of the mechanism for the settlement of the cost of electricity generation and transmission defined by ARCERNNR and which will be applied by CENACE in accordance with the Dispatch and Settlement Regulations<sup>8</sup>.
  - Will not be reduced by any unavailability of the Project that is not attributable to the Concessionaire.
2. A **“Variable Charge”** that will remunerate the Concessionaire for the operation and maintenance of the Project, and will vary depending on the magnitude of the Contracted Energy (as defined below). For each PPA, the Variable Charge will be calculated as follows:
  - Thirty percent (30%) of the energy price included in the Economic Offer awarded in the PPS, expressed in USD/MWh (the “Energy Price”); multiplied by
  - The “Contracted Energy”, calculated as follows:
    - All the energy injected by the Project into the Baltra - Santa Cruz Isolated System at the connection point (the “Supplied Energy”); multiplied by
    - The Settlement Factor, to assign the part of the Variable Charge correspondent to each Distributor.
  - The Energy Price will be adjusted annually on January by local inflation (with a maximum annual ceiling of 4.66%) and the recognition of increases in costs attributable to changes in the Dispatch and Settlement Regulations or to the GADs.

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<sup>6</sup> Regulated Demand definition (LOSPEE Regulation): Power demand and consumption of end-user energy. Includes consumption of general public lighting.

<sup>7</sup> Interpretation: The division of the Regulated Demand of a Distributor by the total Regulated Demand of all Distributors with which the Concessionaire has current PPAs.

<sup>8</sup> Dispatch and Settlement Regulations refers to the set of regulations issued by ARCERNNR that governs the economic dispatch and settlement of transactions of the SNI and the Isolated Systems executed by CENACE and the Distributors, as appropriate and in accordance with the provisions of the LOSPEE and its Regulation.

Any energy loss due to transmission and storage prior to its injection at the connection point will be borne by the Concessionaire and will not be remunerated by the Distributor.

The Project will be part of the economic dispatch carried out by ELECGALÁPAGOS in accordance with the procedures defined in the Dispatch and Settlement Regulations. Although the Project is a non-conventional renewable energy provider, it will not have preferential dispatch conditions because it has a BESS.

### **Trust, Liquidation, Billing, and Payment**

The MERNNR will constitute the Trust Agreement for the Administration of Payments of Obligations of Electricity Distribution and Commercialization Companies (the “Trust”) for cancellation of obligations between participants in the electricity sector. This will be the mechanism to ensure the collection of cash flow from all the Distributors of the SNI and pay the generators, such as the Concessionaire, for the transactions with the Distributors under the PPAs. The Trust will be fed by the collection of payments from the end users made by the Distributors. The Distributors shall assign all the collection rights of the assets entrusted to the Trust. The payments that the trustee will make with the Trust assets will be subject to an order of priority established in the Trust agreement. The MERNNR has not shared the Trust Agreement draft yet with the prequalified bidders for their revision.

The procedure for liquidation, billing and payment to the Concessionaire is as follows:

1. On a monthly basis, the CENACE will determine the commercial transactions carried out between the Concessionaire and each of the Distributors under the PPAs, corresponding to the Fixed Charge and the Variable Charge.
2. The Concessionaire will invoice each of the Distributors, with a copy to the Trust, for the Contracted Energy in the month.
3. The Distributor may claim for any discrepancy between the invoice and the settlement made by CENACE.
4. If the Concessionaire disagrees with such claim, the Distributor will instruct the Trust to pay the total amount of the invoice issued by the Concessionaire until the difference is resolved by mutual agreement or through the disputes resolution mechanism established in the PPA.
5. The Trust will pay the amount of the invoice once the instruction is received from the Distributor, within the following forty-five (45) calendar days counted from the notification of the invoice by the Concessionaire.

### **Lenders’ Rights**

- Credit rights and contractual position rights under the PPA as guarantee for the Secured Debt.
- Prior consent from Lenders to permit the following actions from the Concessionaire:
  - The consent of the Concessionaire to the early termination of the PPA by mutual agreement;
  - The consent of the Concessionaire to any modification or addendum to the PPA; and
  - The delivery to the Distributor of any Notice of Cause for Termination, Notice of Termination or request for revision of contractual conditions.
- Remedy any breach of the PPA from the Concessionaire to avoid the early termination of the PPA.
- Receive a simultaneous copy of all relevant communications from the Distributor to the Concessionaire.

### **Economic-Financial Equilibrium**

The parties may request the revision of the PPA to reestablish the economic-financial equilibrium, in case there are changes in economic, legal, or other conditions that are not attributable to the Concessionaire or the Distributor, are extraordinary, and result in excessive burdensome compliance with the PPA by any of the parties.

### **Termination of the PPA**

The PPA can terminate due to any of the following causes:

1. Expiration of the term of the PPA.
2. Termination of the Concession Contract.
3. Mutual Agreement of the Parties.
4. Force Majeure or Fortuitous Event with a continuous duration of more than one hundred and eighty (180) days.
5. Unilateral Termination for Breach of the Contractual Obligations of the Concessionaire. Cure period: ninety (90) business days, extendable for an equal time. After that time, if the Concessionaire fails to fulfill its contractual obligations, the Lenders will have at least thirty (30) additional days to remedy the breach.

6. Unilateral Termination for Breach of the Contractual Obligations of the Distributor. Cure period: ninety (90) business days, extendable for an equal time.

The PPA doesn't establish an early termination payment to the Concessionaire. The early termination for causes attributable to the Distributor or by Force Majeure or Fortuitous Event, will produce the automatic assignment of the Contracted Energy to the other PPAs that remain in force, applying the Settlement Factor to the current PPAs. Such automatic assignment will not require any type of additional authorization from the Distributors. If there is an early termination of all the PPAs due to an early termination of the Concession Contract, any applicable termination payment to the Concessionaire will come from the Concession Contract.

### **Disputes Resolution Mechanisms**

The PPAs will have the same disputes resolution mechanisms as the Concession Contract.

## **7. Risk Matrix**

#	Risk	Stage	Allocation	Mitigants
1	Design/non-compliance with technical specifications	D&C	Conces.	<ul style="list-style-type: none"> <li>Annex 2 (Technical Specifications).</li> <li>Pre-feasibility studies elaborated by Gransolar.</li> <li>Prequalified experienced Sponsors with adequate financial strength.</li> <li>EPC Contractor with proven experience, technical capacity and financial strength to successfully execute the Project.</li> <li>EPC Contract will mirror the relevant obligations of the Concessionaire established in the Concession Contract, the PPA, the Connection Contract, and the financing documents and will have the customary guarantees to protect the Concessionaire from risks related to the EPC Contractor.</li> </ul>
2	Construction (non-compliance with technical specifications and quality of works/ equipment established in the Concession Contract; cost overruns; delays)	D&C	Conces.	<ul style="list-style-type: none"> <li>Annex 2 (Technical Specifications).</li> <li>Pre-feasibility studies elaborated by Gransolar.</li> <li>Prequalified experienced Sponsors with sufficient financial strength to cover any shortfall of funds on the debt and equity resources originally committed to construct the Project.</li> <li>EPC Contractor with proven experience, technical capacity and financial strength to successfully execute the Project.</li> <li>EPC Contract with fixed price, turnkey, and defined delivery date.</li> <li>The Concessionaire will propose the COD and milestones with the Execution Schedule. The Concessionaire may negotiate with the EPC Contractor the execution of milestones in a shorter time than the one established in the Execution Schedule.</li> <li>EPC Contract will mirror the relevant obligations of the Concessionaire established in the Concession Contract, the PPA, the Connection Contract, and the financing documents and will have the customary guarantees to protect the Concessionaire from risks related to the EPC Contractor.</li> <li>Obligation of the Concessionaire to hire an independent construction inspector to deliver monthly reports of works progress to the Grantor and Administrator of the Concession Contract.</li> <li>Insurances and performance guarantees required to the Concessionaire under the Concession Contract.</li> </ul>
3	Land availability for the Project	D&C	Grantor	<ul style="list-style-type: none"> <li>Among the enabling documents of the Concession Contract and the pre-construction requirements of the Project are the payment of the right to use the land, and the land use right agreement. The Grantor is expected to deliver the Concessionaire the documents that prove the land use rights for the execution or the Project, before the signing of the Concession Contract.</li> <li>ELECGALAPAGOS has easement rights throughout the section of the Baltra - Santa Cruz subtransmission line. These easement rights include the</li> </ul>

				<p>installation of the second circuit, therefore no additional easement imposition is required.</p> <ul style="list-style-type: none"> <li>The delay of the Grantor to deliver the land use rights to the Concessionaire may be considered as a Force Majeure or Fortuitous Event, and the Execution Schedule may be modified due to such cause.</li> </ul>
4	Geological/geotechnical	Both	Conces.	<ul style="list-style-type: none"> <li>The Project will be located in areas where there are existing constructions (the Photovoltaic Plant/BESS and the Conolophus Substation in an old airstrip, and part of the BESS in premises of the Puerto Ayora Photovoltaic Plant) and the Second Circuit of the Baltra-Santa Cruz Interconnection System will be displaced in parallel to the existing subtransmission line.</li> </ul>
5	Environmental and/or social (non-compliance with regulations or the implementation of preventive or corrective measures defined in the EIA/EMP, causing environmental damage, penalties, possible cost overruns and delays)	Both	Conces.	<ul style="list-style-type: none"> <li>EPC Contractor and O&amp;M Contractor with proven experience, technical capacity and financial strength to successfully execute the Project.</li> <li>EPC Contract and O&amp;M Contract will mirror the relevant obligations of the Concessionaire established in the Concession Contract, the PPA, the Connection Contract, and the financing documents and will have the customary guarantees to protect the Concessionaire from risks related to these contractors.</li> <li>Among the pre-construction requirements of the Project in the Concession Contract are the EIA, the EMP, whose compliance is mandatory for the Concessionaire, and the environmental license. In the technical visit, the MERNNR indicated that ELECGALÁPAGOS will prepare the EMP, the EIA and obtain the environmental license for the Project to deliver them to the Concessionaire.</li> </ul>
6	Environmental liabilities	D&C	Shared	<ul style="list-style-type: none"> <li>The Grantor should assume the environmental costs related to any environmental liability that may have arisen prior to the signing of the Concession Contract. However, the allocation of this risk is not specified in the Concession Contract. The current mitigant is to consider this risk as a Force Majeure or Fortuitous Event.</li> </ul>
7	Archaeological (significant findings may prevent the start of construction or interrupt the normal development of the Execution Schedule and cause construction costs overruns)	D&C	Shared	<ul style="list-style-type: none"> <li>This risk is included as part of the Force Majeure or Fortuitous Event risk in the Concession Contract: Any discovery of archaeological remains that is of such magnitude that it prevents the Concessionaire from completing the Execution Schedule and its milestones within its term or from providing the service normally.</li> <li>The Project will be located in areas where there are existing constructions (the Photovoltaic Plant/BESS and the Conolophus Substation in an old airstrip, and part of the BESS in premises of the Puerto Ayora Photovoltaic Plant) and the Second Circuit of the Baltra-Santa Cruz Interconnection System will be displaced in parallel to the existing subtransmission line.</li> </ul>
8	Obtaining permits and licenses	D&C	Shared	<ul style="list-style-type: none"> <li>Concession Contract: The deadlines for meeting the control milestones of the Execution Schedule may be modified with the Administrator's report and the Grantor's authorization if there are delays caused by the failure to issue permits or authorizations from the competent national authorities (such as environmental permits &amp; licenses, construction permits, infrastructure required for interconnection to the SNI, etc. ), provided that the Concessionaire proves that it has initiated the procedure with due time and diligence and that it has not obtained the necessary authorizations to meet the milestones for reasons beyond its control.</li> <li>The lack of authorizations or permits by any authority, agency or entity that affects the execution of the Concession Contract is considered as a Force Majeure or Fortuitous event.</li> <li>Experienced Sponsors and EPC Contractor.</li> </ul>



9	Additional investments that may be required by the Grantor or the Distributors, causing costs overruns in construction, unforeseen CAPEX out of the initial construction period or increases in O&M costs	Both	Shared	<ul style="list-style-type: none"> <li>The current mitigant for this risk is the clause to revise the Concession Contract and the PPA to reestablish their economic-financial equilibrium and the use of the Disputes Resolution Mechanisms in those contracts, in case the Grantor or the Distributors require the Concessionaire to carry out additional investments and the parties do not agree on the conditions to execute them.</li> <li>The Concession Contract does not include the possibility that the Grantor requires the Concessionaire to carry out additional investments.</li> </ul>
10	Income Risk-Availability Factor lower than 0.96 (Fixed Charge)	O&M	Conces.	<ul style="list-style-type: none"> <li>EPC Contractor and O&amp;M Contractor with proven experience, technical capacity and financial strength to successfully execute the Project.</li> <li>O&amp;M Contract with standard performance guarantees, as well as associated penalties in the event of performance below minimum levels.</li> <li>EPC Contract including equipment performance guarantees and major maintenance support during the operation phase of the Project.</li> </ul>
11	Income risk-lower generation (Variable Charge) due to lower solar resource	O&M	Conces.	<ul style="list-style-type: none"> <li>The Fixed Charge that the Distributors must pay to the Concessionaire under the PPAs will be a significant part (approximately 70%) of the revenues of the Concessionaire and it will not depend on the energy generation.</li> <li>Energy production study, required as part of the Technical Offer in the PPS, prepared by a firm with solid prestige and experience.</li> <li>Adequate level of Project leverage.</li> </ul>
12	Income risk-lower generation (Variable Charge) due to inefficiencies in the Project operation	O&M	Conces.	<ul style="list-style-type: none"> <li>The Fixed Charge that the Distributors must pay to the Concessionaire under the PPAs will be a significant part (approximately 70%) of the revenues of the Concessionaire and it will not depend on the energy generation.</li> <li>EPC Contractor and O&amp;M Contractor with proven experience, technical capacity and financial strength to successfully execute the Project.</li> <li>O&amp;M Contract with standard performance guarantees, as well as associated penalties in the event of performance below minimum levels.</li> <li>EPC Contract including equipment performance guarantees and major maintenance support during the operation phase of the Project.</li> </ul>
13	Income risk-impossibility of dispatch (Variable Charge) due to causes attributable to the Baltra - Santa Cruz Isolated Electric System, any government authority, or the dispatch priority in the PPAs	O&M	Shared	<ul style="list-style-type: none"> <li>The Fixed Charge will be a significant part (approximately 70%) of the revenues of the Concessionaire and it will not be reduced by any unavailability of the Project that is not attributable to the Concessionaire.</li> </ul>
14	Income risk-lower energy demand (Variable Charge)	O&M	Grantor	<ul style="list-style-type: none"> <li>The Fixed Charge that the Distributors must pay to the Concessionaire under the PPAs will be a significant part (approximately 70%) of the revenues of the Concessionaire and it will not depend on the energy demand.</li> <li>The Project will supply approximately 70% of Santa Cruz island energy demand at COD.</li> <li>The energy demand in the Galápagos Islands have a Compound Annual Growth Rate ("CAGR") of approximately 9% for the period 1999-2018 (19 years) (Source: Plan Maestro de Electrificación 2019-2027, MERNNR) and</li> </ul>

				<p>7% for the period 2009-2019 (10 years) (source: ELECGALÁPAGOS. Executive Summary of Accountability 2019).</p> <ul style="list-style-type: none"> <li>The projected energy demand in the Galápagos Islands have a CAGR of approximately 8% for the period 2019-2027 (9 years) (Source: Plan Maestro de Electrificación 2019-2027, MERNNR).</li> </ul>
15	Income risk-lower price (Fixed Charge and Variable Charge)	O&M	Grantor	<ul style="list-style-type: none"> <li>The components of the Concessionaire revenues established in the PPAs are not exposed to price risk.</li> </ul>
16	Revenue collection/counterparty (Distributors not paying on time, in full or at all the Fixed Charge and the Variable Charge)	O&M	Conces.	<ul style="list-style-type: none"> <li>Constitution of the Trust by the MERNNR as the mechanism to ensure the collection of cash flow from all the Distributors of the SNI and pay the generators, such as the Concessionaire, for the transactions with the Distributors under the PPAs.</li> <li>The Distributors belong mainly to the MERNNR and the GAD.</li> <li>The Distributors will endorse their cash collection from all the end users of the SNI to the Trust, which will be the source of funds to pay the Fixed Charge and the Variable Charge to the Concessionaire. Consequently, the revenues for the Concessionaire will be diversified among the users of the SNI.</li> <li>High revenue collection rate of Distributors: The percentage of collection of annual energy sales from Distributors to final users nationwide has been higher than 87% for the period 2002-2018 (17 years), with an average of 95% (Source: Plan Maestro de Electrificación-MERNNR).</li> </ul>
17	Financing	D&C	Conces.	<ul style="list-style-type: none"> <li>The Concession Contract and the PPA have important bankable terms and conditions under a project finance scheme, such as clearly defined revenues of the Concessionaire, the Trust, Lenders' rights, clause to revise the contract to reestablish the economic-financial equilibrium, early termination payment or the obligation of the new concessionaire to assume the Secured Debt, and disputes resolution mechanisms (including international arbitration in Chile).</li> <li>Sponsors/shareholders with experience in project finance and adequate financial strength.</li> <li>Financial advisor of the Sponsors with the necessary experience to achieve the financial closing successfully.</li> <li>The deadline for the financial closing will be proposed by the prequalified bidders in the Execution Schedule.</li> <li>Appetite from the financial market for the Project exceeds the Project financing need.</li> </ul>
18	Interest rate	Both	Conces.	<ul style="list-style-type: none"> <li>Structure an important part of the financing at a fixed rate or with rate hedging instruments.</li> <li>Adequate level of Project leverage.</li> </ul>
19	Inflation	Both	Shared	<ul style="list-style-type: none"> <li>During the construction period: EPC Contract with a fixed price, turnkey and a defined delivery date.</li> <li>During the operation period: The Energy Price used for the Variable Charge under the PPA includes an adjustment factor that recognizes the annual local inflation, with a maximum annual ceiling of 4.66%.</li> </ul>
20	Exchange rate	Both	Conces.	<ul style="list-style-type: none"> <li>The official currency of Ecuador is the dollar of the United States of América (USD).</li> <li>During the construction period: The EPC Contract will be negotiated and paid in USD and the financing will be made in the same currency.</li> <li>During the operation period: The Concessionaire will receive its revenues in USD, its operation and maintenance costs and the debt service will be negotiated and paid in that same currency.</li> </ul>

21	Non-compliance with the energy quality indices required in the Concession Contract (repetition is a serious fault subject to fines)	O&M	Conces.	<ul style="list-style-type: none"> <li>• EPC Contractor and O&amp;M Contractor with proven experience, technical capacity and financial strength to successfully execute the Project.</li> <li>• O&amp;M Contract with standard performance guarantees, as well as associated penalties in the event of performance below minimum levels.</li> <li>• EPC Contract including equipment performance guarantees and major maintenance support during the operation phase of the Project.</li> </ul>
22	Operation and maintenance cost overruns for reasons other than inflation	O&M	Conces.	<ul style="list-style-type: none"> <li>• O&amp;M Contractor with proven experience, technical capacity and financial strength to successfully execute the Project.</li> <li>• O&amp;M Contract with a fixed price in USD, an adjustment formula to recognize inflation effects in time, standard performance guarantees, and associated penalties in the event of performance below minimum levels.</li> <li>• EPC Contract including equipment performance guarantees and major maintenance support during the operation phase of the Project.</li> </ul>
23	Early termination of the Concession Contract/PPAs	Both	Shared	<ul style="list-style-type: none"> <li>• The Concession Contract identifies the causes for its termination, with (i) Cure periods for causes attributable to the Concessionaire and the Grantor; (ii) Early termination payments from the Grantor to the Concessionaire in case of mutual agreement or causes attributable to the Grantor; and (iii) The obligation of the new concessionaire to honor the Secured Debt, assuming the position of debtor before the Lenders.</li> <li>• The PPA identifies the causes for its termination with cure periods for causes attributable to the Concessionaire and the Distributor.</li> <li>• If a PPA has an early termination for causes attributable to the Distributor or by Force Majeure or Fortuitous Event, the Contracted Energy of such PPA will be redistributed among the rest of the PPAs, applying the Settlement Factor. The early termination of any PPA will not affect the term of the Concession Contract and will not give the Concessionaire an early termination payment from the respective Distributor.</li> <li>• If the Concession Contract has an early termination, this will cause an early termination of all the PPAs. In this case, any termination payment will come only from the MERNNR under the Concession Contract, not from the PPAs.</li> <li>• The early termination payments under the Concession Contract will come from the MERNNR, who will sign the Concession Contract as the Grantor in representation of the Ecuadorian State.</li> </ul>
24	Force Majeure or Fortuitous Event (the risk that events that are beyond the control of the parties, such as COVID-19, natural disasters, terrorism, war, etc., have an adverse impact on the execution of the Project)	Both	Shared	<ul style="list-style-type: none"> <li>• The Concession Contract establishes that the Concessionaire must contract the development of a risk study with a company with verifiable experience, and based on such study, will contract and maintain the required insurance policies from the beginning of construction.</li> <li>• Concession Contract: The deadlines for meeting the control milestones of the Execution Schedule may be modified with the Administrator's report and the Grantor's authorization if there is a delay caused by the occurrence of a Force Majeure or Fortuitous Event duly declared.</li> <li>• Clause in the Concession Contract and the PPAs to revise the contracts to reestablish the economic-financial equilibrium due to changes in economic, legal, or other conditions, including a change in law that: (a) are not attributable to the Concessionaire, (b) are extraordinary and unforeseen and (c) result in excessive onerousness in the compliance of the contract for the Concessionaire.</li> <li>• The Concessionaire may request the suspension of the Concession term. In this event, the days of suspension will not be counted within the term of the Concession Contract.</li> <li>• The Concession Contract and the PPA establish that either of the parties may declare the contract prematurely and unilaterally terminated by the occurrence of a Force Majeure or Fortuitous Event, whose duration</li> </ul>

				extends uninterruptedly for a period of more than one hundred and eighty (180) days.
25	Legal modifications, including environmental or tax regulations, that may cause additional costs to the Concessionaire	Both	Shared	<ul style="list-style-type: none"> <li>• Clause in the Concession Contract and the PPAs to revise the contracts to reestablish the economic-financial equilibrium due to changes in economic, legal, or other conditions, including a change in law that: (a) are not attributable to the Concessionaire, (b) are extraordinary and unforeseen and (c) result in excessive onerousness in the compliance of the contract for the Concessionaire.</li> <li>• Regarding the tax regime, the Concessionaire can request and sign an Investment Contract linked to tax stability.</li> </ul>
26	Country (deterioration of political and economic conditions in Ecuador, affecting negatively the sector and/or the contractual agreements assumed by the Concessionaire)	Both	Conces.	<ul style="list-style-type: none"> <li>• The Concessionaire can request and sign an Investment Contract.</li> <li>• High political support for the Project.</li> <li>• Same mitigants of the early termination of the Concession Contract/PPA risk.</li> </ul>

#### Meanings:

- D&C = Design and Construction Stage
- O&M = Operation and Maintenance Stage
- Both = Risk present in both stages (D&C and O&M)
- Conces. = Concessionaire
- Grantor = MERNNR
- Shared = Concessionaire and Grantor

## 8. Investment Considerations

### 8.1. Contribution to the Environment and to the Development of the Country

- The Project generates a positive environmental impact by incorporating the use of photovoltaic technology plus batteries in favor of the preservation of the environment in the Galápagos Islands, declared by UNESCO as a Natural World Heritage Site. The Project will change the energy matrix from thermoelectric generation to photovoltaic on Santa Cruz Island, whose population (15,701 inhabitants) represent 62% of the Galápagos Islands (25,244 inhabitants), according to the last census of year 2015<sup>9</sup>.
- The reduction in the use of diesel for power generation:
  - Will generate savings to the State in the purchase of this fuel, in the costs of its transportation to the Island and in the maintenance costs of the current thermal generation systems.
  - Will reduce the risk of oil spills and its derivatives on the Island.
- The call for the PPS by the MERNNR is a clear sign of the political support that the Project has from the Ecuadorian State.

### 8.2. Concession Contract and PPAs with Bankable Terms and Conditions

- The Concession Contract includes important elements for a project finance scheme, as follows:
  - A good risks distribution between the Concessionaire and the Grantor.
  - The obligation of the MERNNR to sign the Connection Contract and the PPAs with the Concessionaire through ELECGALÁPAGOS and the Distributors respectively.
  - The revenues of the Concessionaire will be in USD and will come from the PPAs with the Distributors.
  - The term to achieve the financial closing will be proposed by the Concessionaire in the Execution Schedule.

<sup>9</sup> Source: Instituto Nacional de Estadística y Censos ("INEC") (<http://www.ecuadorencifras.gob.ec/galapagos-tiene-25-244-habitantes-segun-censo-2015>)

- Lenders' rights: Requirement of Lenders consents for key matters for them, pledge on the Concessionaire's shares, step-in rights, obligation of the Grantor and the Administrator to send the Lenders the relevant communications sent to the Concessionaire simultaneously.
  - Clause to revise the Concession Contract to reestablish its Economic-Financial Equilibrium.
  - Identification of causes for termination of the Concession Contract, with:
    - Cure periods for causes attributable to the Concessionaire and the Grantor;
    - Early termination payments from the Grantor to the Concessionaire in case of mutual agreement or causes attributable to the Grantor; and
    - The obligation of the new concessionaire to honor the Secured Debt, assuming the position of debtor before the Lenders.
  - Dispute resolutions mechanisms: Friendly conciliation solution, mediation and international arbitration (Santiago de Chile).
- The PPA includes important elements for a project finance scheme, as follows:
    - Clear definition of the components of the Concessionaire revenues (Fixed Charge and Variable Charge) that it will receive in USD on a monthly basis, with:
      - An important part of the energy price included in the Economic Offer assigned to the Fixed Charge (70%); and
      - The adjustment of the Variable Charge to recognize the local inflation and the increase in the Concessionaire costs by (i) items or aliquots, derived from changes in the Dispatch and Settlement Regulations, and (ii) fees, contributions and taxes from GADs.
    - Constitution of the Trust by the MERNNR as the mechanism to ensure the collection of cash flow from all the Distributors of the SNI and pay the generators, such as the Concessionaire, for the transactions with the Distributors under the PPAs.
    - Lenders' rights: Requirement of Lenders consents for key matters for them, credit and step-in rights (contractual position and remediation), obligation of the Distributor to send the Lenders the relevant communications sent to the Concessionaire simultaneously.
    - Clause to revise the PPA to reestablish its Economic-Financial Equilibrium.
    - Identification of causes for termination of the PPA, with:
      - Cure periods for causes attributable to the Concessionaire and the Distributor; and
      - Automatic reassignment of the Contacted Energy to the other PPAs that remain in force, applying the Settlement Factor to the current PPAs, in case of early termination for causes attributable to the Distributor or by Force Majeure or Fortuitous Event.
    - Dispute resolutions mechanisms: Friendly conciliation solution, mediation and international arbitration (Santiago de Chile).

### 8.3. Atomized Revenues from the SNI with Trust and Priority of Payment

- The Distributors will endorse their cash collection from all the end users of the SNI to the Trust, which will be the source of funds to pay the Fixed Charge and the Variable Charge to the Concessionaire. Consequently, the revenues for the Concessionaire will be diversified among the users of the SNI.
- High revenue collection rate of Distributors: The percentage of collection of annual energy sales from Distributors to final users nationwide has been higher than 87% for the period 2002-2018 (17 years), with an average of 95% (Source: Plan Maestro de Electrificación-MERNNR).

### 8.4. Dollarized Economy

- The currency in Ecuador is the dollar of the United States of America (USD). The Concessionaire will receive his revenues and will have all his costs in USD.

### 8.5. Experienced Sponsors with Adequate Financial Strength

#### **GRANSOLAR**

In its 8 years of existence, Gransolar has acquired experience in the design, construction, equipment operation and maintenance of two photovoltaic generation projects, called Salinas (2.4 MW) and Tren Salinas (1.2 MW), located in the Provincia de Imbabura, Cantón

Urququí, sector El Salado, Ecuador. Both plants were built with a project financing scheme and have been operating since July 2014. Gransolar has generated a positive operational cash flow with these two projects, adequately covering the debt service, and maintaining a healthy financial situation.

## **TOTAL EREN**

In its 8 years of existence, Total Eren has acquired vast experience developing, financing, building and operating renewable energy plants (solar, wind, hydro) representing a gross capacity of more than 3,300 MW in operation or under construction worldwide and more than 2,000 MW of projects under development. On April 5<sup>th</sup>, 2019, Total Eren had a significant business growth with the acquisition of NovEnergia thus extending its presence notably into Southern Europe. As a result of its sound strategy and financial support from its shareholders, Total Eren presents financial highlights with constant increase in its operations, an important cash flow generation, and Balance Sheet size with adequate leverage.

## **9. Links of Interest**

- GRANSOLAR : <http://www.gransolar.ec/>
- TOTAL EREN : <https://www.total-eren.com/en/>
- MERNNR : <https://www.rekursosyenergia.gob.ec/>
- CENACE : <http://www.cenace.org.ec/>
- ELECGALÁPAGOS : <http://www.elecgapagos.com.ec/newsite/>
- ARCERNR : <https://www.controlrecursosyenergia.gob.ec/>

## **10. Estimated Financing Scheme and Request**

### **10.1. Financing Scheme**

The Sponsors are contemplating the following financing scheme for the Project:

#### Senior Long-Term Debt (Project Finance)

During the execution of the construction, the Lenders and the shareholders will make the disbursements of debt and capital respectively in accordance with the total funding requirements of the Project. The source of the financing repayment will be the cash flow available for debt service, coming from the Concessionaire revenues after the construction period.

### **10.2. Request**

Please confirm by email if your institution would be interested in participating in the financing of the Project. If so, please provide a Letter of Interest ("LOI") with at least all the indicative terms and conditions for such participation included in Annex I of this document.

In the LOI please feel free to include any additional comment or concern the Lender has identified about the Project, the Concession Contract, the PPA or other Project document, about any relevant point that needs to be solved to facilitate the financing structuring.

We hope to receive all the indicative proposals until **February 3<sup>rd</sup>, 2021**. Please send them by email to the people indicated in the following Contacts section of this document. For any questions or comments about the request, please do not hesitate to contact us.

## **11. Contacts**

Name (City)	Position	Phone	E-mail
<b>CAF - Financial Advisor</b>			
Carlos David Román (Caracas)	Senior Executive	+58 (212) 209 2267	croman@caf.com
Samuel Lederman (Caracas)	Officer	+58 (212) 209 2194	slederman@caf.com
<b>Gransolar S.A. - Sponsor</b>			
Pablo López (Quito)	General Manager	+593 (2) 380 1227 / 1228 Ext 34	plopez@gransolar.ec
<b>Total Eren S.A. - Sponsor</b>			
Gregory Thomassin (Paris)	Project Finance Director	+33 (1) 5897 5800 Mob: +33 (6) 2775 8644	Gregory.thomassin@total-eren.com

## Annex I: Indicative Terms & Conditions for Senior Long-Term Debt (Project Finance)

Senior Long-Term Debt under a Project Finance Scheme	
Estimated Project Cost:	USD 50 million, including Value-Added Tax (VAT) and not including the financial cost during the construction period.
Amount of interest in Project's Senior Debt in USD:	
Total time required by the lender from initiation of due diligence to financial closing (months):	
Source of repayment:	Cash flow available for debt service coming from the Concessionaire revenues after the construction period.
Maximum door-to-door tenor (includes Grace Period for the principal):	
Grace Period:	Construction period (up to 24 months)
Minimum frequency of drawdowns (preferably monthly):	
Frequency of interest and principal payments:	Semiannual
Principal amortization type (semiannual payments):	Principal amortization sculpted to fit the cash flow available for debt service.
Applicable margin over 6-month LIBOR:	
Fixed interest rate (in case your institution can provide it):	
Required interest rate hedge ratio (% of total senior debt):	
Up-front fee:	
Commitment Fee:	
Debt Service Reserve Account:	Six (6) months of debt service (interest and principal).
Specialty of independent consultants that the Lender will require the Sponsors to hire and their estimated fees:	
Any other required financial fee or cost for the Project:	
Governing Law (please indicate if it can be Ecuadorian law among your alternatives):	
Any other indicative term and condition from the Lender that is important to considerate for the preparation of the bidding offer:	
Additional points to those mentioned in the Teaser about the Project, the Concession Contract, the PPA or other Project document that are important to the Lender:	

Senior Debt Sizing Criteria and Cash Distribution to Shareholders Criteria	
<p>Minimum Senior Debt Service Coverage Ratio ("DSCR") for debt sizing.</p> <p>We are asking the Lenders to provide the minimum Senior DSCR considering that the cash flow available for debt service used to calculate it will include all the revenues of the Concessionaire (Fixed Charge and Variable Charge). For said DSCR level, we request the Lenders to consider that a significant part of the Concessionaire's revenues (approximately 70%) will come from the Fixed Charge, that is to say, they will be based on the availability of the Photovoltaic Plant and the BESS, and will not depend on energy generation.</p> <p>Please also indicate the probability scenario of exceeding the energy generation for the Variable Charge (for example P50 or P90) considered by the Lender for such DSCR:</p>	
Maximum Senior Debt / Total Investment Cost ratio for debt sizing (in case your institution requires this criterion):	
Minimum Senior Debt Service Coverage Ratio ("DSCR") for restricted payments to shareholders:	



## Annex II: The Concession Contract Details

### 1. General Terms

The LOSPEE provides that the bidder who is selected from the PPS has the right to be granted the respective *Título Habilitante*, and for his part, this bidder is obliged to sign the respective PPAs, based on the price presented in the offer. The object of the contract will be to give the concession to the Concessionaire to execute the Project.

The MERNNR has the obligation to sign the following contracts with the Concessionaire, according to the LOSPEE:

- The Connection Contract through its subsidiary ELECGALÁPAGOS; and
- The PPAs through the Distributors.

The term of the Concession Contract will be twenty five (25) years from its signing date. The Project will be developed according to the documents presented by the Concessionaire in the PPS containing the detail of the Project execution activities and control milestones proposed by the Concessionaire, considering the term required to fulfill each of the activities, counted from the date of signing the Concession Contract (the “Execution Schedule”).

The Concessionaire will build and put into operation the components of the Project in accordance with:

- The technical scope contained in Annex 2 (Technical Specifications) of the PPS rules;
- The construction requirements contained in the PPS rules;
- The characteristics contained in the Offer;
- The prudent practices of the industry; and
- Applicable legislation.

The Execution Schedule must have the following control milestones per Project component, to be measured in days counted from the signing date of the Concession Contract:

Photovoltaic Plant and BESS	Associated Subtransmission System	Microgrid Central Control System
Financial closing	Civil work	Supply of Equipment
Supply of Equipment	Electromechanical assembly	Beginning of operation
Civil work	Energization of the Associated Subtransmission System: Second Circuit of the Baltra-Santa Cruz Interconnection System and Conolophus Substation	
Electromechanical assembly		
Declaration of Commencement of Commercial Operation		

The Concessionaire must have on its payroll the following:

- For the construction phase: 100% of national unskilled labor, preferably from the locality, and at least 20% of national professionals.
- For the operation and maintenance phase: 100% national unskilled labor, preferably from the locality, and at least 75% national professionals.

Up to one hundred and eighty (180) days after the start of commercial operations, the Concessionaire will transfer to ELECGALÁPAGOS at no cost the Conolophus Substation, the Second Circuit of the Baltra-Santa Cruz Interconnection System and the Microgrid CCS, as will be established in the Connection Contract. The operation and maintenance of these assets will be in charge of ELECGALÁPAGOS, except for the maintenance of the Microgrid CCS that will be in charge of the Concessionaire, as established in the Technical Specifications.

ARCERNNR will be the administrator of the Concession Contract (the “Administrator”). As such, it will control, administer and supervise the execution of the contract and will adopt all measures necessary to assure its compliance. The Administrator will be in charge of communicating, attending and giving orders directly to the Concessionaire, fulfilling the duty of communicating about its management to the MERNNR. The Administrator will impose the fines and sanctions that may be applicable, in accordance with the Concession Contract and regulations.

The Concessionaire's equity must have the same shareholders participation percentages to the ones presented by the awardee in the prequalification of the PPS. The Concessionaire will not be able to change the legal person nominated by it with a minimum ownership of 25% of its shares (the "Strategic Partner") until five (5) years from the signing date of the Concession Contract, without prejudice of the step-in rights granted to the Lenders.

The Grantor, exceptionally and with the purpose of safeguarding national interests, will authorize the transfer of the Concession Contract, provided that the legal entity that will act as the new Concessionaire, either by itself or through its partners, complies with the financial, technical and legal requirements established in the PPS. This transfer may not be requested to the Grantor before five (5) years from the signing date of the Concession Contract. This term will not apply for the Lenders.

At the end of the Concession Contract term, all assets assigned to the public service must be reverted and obligatorily transferred to the Ecuadorian State at no cost, if there is public interest, supported by a remaining useful life report by the Concessionaire, who must request its preparation to an impartial expert 18 months prior to the end of the Concession term, following the procedure established by the MERNNR for this purpose.

## 2. Revenues of the Concessionaire

The revenues of the Concessionaire will come from the PPAs that it will sign with the Distributors. The Concessionaire will receive its revenues in USD.

## 3. Lenders' Rights

### **Representative of the Lenders**

The Concessionaire will notify the Grantor the appointment by the Lenders of a legal person with domicile in Ecuador as their common and sole representative for the purposes of carrying out any of the actions, the exercise of any of the rights and the fulfillment of any of the obligations by the Lenders under the Concession Contract (the "Representative of the Lenders"). Such representative may be replaced by delivering to the Grantor a new notification of appointment, which must be signed by the Concessionaire and the Representative of the Lenders that will be replaced.

### **Consent of Lenders**

The following acts of the Concessionaire will be valid and effective if the Concessionaire has obtained the prior written consent of the Representative of the Lenders and has delivered a copy of such consent to the Grantor:

- The consent of the Concessionaire to the early termination of the Concession Contract by mutual agreement, in accordance with the provisions of this instrument;
- The consent of the Concessionaire to any modification or addendum to the Concession Contract, in accordance with the provisions of this instrument; and
- The delivery to the Grantor of any request to change the Strategic Partner, a written communication notifying the occurrence of a cause for termination of the Concession Contract ("Notice of Cause for Termination"), a written communication notifying the termination of the Concession Contract ("Notice of Termination") or request for revision of contractual conditions.

Additionally, any modification to the Concessionaire's Bylaws that affects any of the mandatory provisions set forth in the Concession Contract will require the approval of the Representative of the Lenders and the prior written authorization of the Grantor.

### **Pledge on the Concessionaire's Shares**

- The Concessionaire's shares can be pledged in favor of the Lenders in order to guarantee the repayment of the debt obtained by the Concessionaire to execute the Project (the "Secured Debt"), and the shares can be transferred to a guarantee trust.
- The Lenders can become controlling shareholders of the Concessionaire as a consequence of the execution of such pledge, and beneficiaries of the economic rights associated with such shares.
- The mentioned pledge of shares and its execution by the Lenders itself will not be considered as a change of Strategic Partner under the Concession Contract, unless the shares are transferred to a legal person or entity different from the Lenders, in

which case the new shareholder that will become the Strategic Partner must comply with the requirements established in the PPS and receive the prior approval of the Grantor.

#### **Remedy by Lenders**

In the event that the Grantor has delivered to the Concessionaire a Notice of Cause for Termination, based on the report issued by the Administrator, and the Concessionaire has not remedied the breach or event that gave rise to the termination cause, the Lenders may:

- Express the Grantor their intention to correct such event or breach within the term conferred by the Grantor; and
- Rectify such event within the term conferred by the Grantor, either directly or through the contracting of third parties. At any time during such period of correction, the Lenders may waive their right to remedy the breach by delivering a communication to the Grantor.

Once the period of correction granted to the Lenders expire without the breach been remedied, the Grantor may declare the expiration of the Concession Contract.

#### **Communications to Lenders**

The MERNNR or the Administrator, as the case may be, will deliver to the Representative of the Lenders, simultaneously with their delivery to the Concessionaire, a copy of any notification of Force Majeure or Fortuitous Event, notification of breach of the Concession Contract, Notification of Cause for Termination, Notification of Termination, or notification of special control of the Concessionaire by ARCERNNR (Articles 182, 183 and 184 of the LOSPEE regulation).

#### **Stipulations in Favor of Third Parties**

The Grantor and the Concessionaire acknowledge and accept that the rights recognized in the Concession Contract to the Lenders and their representative constitute rights in favor of third parties and that the acceptance of such rights by the Representative of the Lenders when accepting its appointment will constitute the acceptance of such rights by all the Lenders. The Grantor and the Concessionaire expressly and irrevocably waive any right that they may have under applicable law to revoke the rights and powers recognized in the Concession Contract in favor of the Lenders and their representative.

#### **References to Lenders**

The rights recognized to the Lenders and/or the Representative of the Lenders under the Concession Contract will only be effective from the moment the Concessionaire delivers to the Grantor a notification of designation of the Representative of the Lenders.

### **4. Revision of the Concession Contract**

#### **Change in Schedule and Deadlines**

The Concession Contract may be modified due to unforeseen or duly motivated technical causes that may be invoked by any of the parties, provided that said modifications comply with current regulations and protect the public interest and the continuity of the provision of the public electricity service. The MERNNR may authorize the modification of the Execution Schedule for the construction stage of the Project for the following reasons:

- If the breach of any of the milestones of the schedule is due to the lack of timely delivery of prior authorizations or reports, issued by any governmental, national or local entity, in accordance with their powers, and despite the verified diligent management of the Concessionaire.
- If there is a delay in the execution of the Project milestones and the Concessionaire has not been able to justify it, without prejudice to the application of the corresponding fines and penalties, as established in the Concession Contract.
- Due to causes of Force Majeure or Fortuitous Event, duly justified.

#### **Economic-Financial Equilibrium**

In the event that there are changes in economic, legal, or other conditions, including a change in law that: (a) are not attributable to the Concessionaire, (b) are extraordinary and unforeseen and (c) result in excessive onerousness in the compliance of the Concession Contract for the Concessionaire:

- The Concessionaire may request the revision of the contractual conditions affected, by delivering a request for a revision of the contractual conditions to the Grantor.

- The Grantor may take a maximum of thirty (30) days to accept or deny the revision of the affected contractual conditions required by the Concessionaire.
- A decrease in electricity prices that may occur in the future may not be invoked to base a request for revision of contractual conditions in the mentioned terms.

Notwithstanding the requirement by one of the parties to review the affected contractual conditions, all the terms and conditions of the Concession Contract will remain valid and in force until:

- The parties reach an agreement on the revision of the affected contractual conditions. Such agreement will only take effect if the prior written consent of the Representative of the Lenders has been obtained, provided that said modifications are in accordance with current regulations, and safeguard the public interest and the continuity of the provision of the public electric energy service; or
- The revision of the affected contractual conditions is ordered through the applicable disputes resolution mechanism of the Concession Contract, in which case all its terms and conditions will be maintained valid and in force as determined by an arbitration award.

## 5. Termination of the Concession Contract

### **Causes of Termination of the Concession Contract**

The termination of the Concession Contract may be declared in the following cases:

1. If the object of the Concession Contract (the execution of the Project) has been fulfilled.
2. Expiration of the term of the Concession Contract. The Concession Contract shall be terminated by right at the expiration of the term of the concession. In no case may the Grantor consider the object of the contract as fulfilled without the concession term having expired.
3. Mutual agreement of the parties. The termination should not affect the interest of the State.
4. Expiration declared by the Grantor, due to the following causes:
  - a. Not initiating commercial operation according to the terms established in the Concession Contract or if, once started, the Concessionaire suspends operations for a period of more than sixty (60) days without justifying cause, except for Force Majeure or Fortuitous Event.
  - b. Not restarting, within a maximum period of sixty (60) days, the operations once the causes that motivated the suspension have disappeared, without justifying cause.
  - c. Incurring falsehoods of bad faith or willful misconduct in the statements or reports on technical or economic data, after being sanctioned by the Administrator or by any competent Government Authority.
  - d. Failing to make the investments stipulated in the Concession Contract.
  - e. Having used fraud or illegal means in the subscription of the Concession Contract, declared by court ruling.
  - f. Transferring rights or entering into private contracts or agreements for the assignment of one or more of the rights of this Concession Contract, without the authorization of the Grantor.
  - g. Transferring shares, participations, contribution certificates or other titles that imply a change of the Strategic Partner without authorization from the Grantor.
  - h. Operating without authorization.
  - i. Installing generation or self-generation plants; as well as, import or export electrical energy, without the corresponding concession contract.
  - j. Receiving firm administrative sanction resolutions issued by the National Environmental Authority referring to environmental infractions, without prejudice to the obligation of the Concessionaire to carry out the corresponding remediation.
  - k. Abandoning the execution of the Project or its operation without justification and for more than thirty (30) days, duly verified and declared by the Administrator, after considering the due discharge.
  - l. Receiving fines that exceed the value of the Guarantee of Compliance with the Terms of Construction of the Electrical Infrastructure or the Guarantee of Compliance with the Operation Obligations.
  - m. Attacking the technical, economic and financial stability of the electricity sector.

- n. If one or more documents presented for the granting of the Concession Contract is proven to be false, or does not have the required technical, legal or financial support, without prejudice to the corresponding legal actions; declared by court ruling.
- o. If the execution of the Concession Contract is impossible due to events attributable to the Concessionaire, provided that the Administrator has given the Concessionaire the opportunity to correct the breach and it has not done so.
- p. If a repeated breach of substantial contractual obligations by the Concessionaire is determined in accordance with the provisions of the Concession Contract, provided that the Administrator has given the Concessionaire the opportunity to correct the breach and it has not done so.
- q. Enforceable sentence issued by a competent judicial authority, which establishes criminal responsibility against the Concessionaire for committing a crime.
- r. The firm revocation of the environmental permits or the use of natural resources, issued by the competent authority, in accordance with the regulations issued for that purpose.
- s. Not making use of the primary energy resource in accordance with the provisions of the Concession Contract.
- t. Failure by the Concessionaire to deliver the required guarantees or their renewal, in accordance with the terms established in the Concession Contract and the regulation.
- u. If the Concessionaire or its representatives were sentenced by final judgment for crimes against the efficiency of the Public Administration, as established by the Comprehensive Organic Penal Code (*Código Orgánico Integral Penal* or "COIP").

Once any of the previous mentioned causes for termination of the Concession Contract is produced and after receiving a report from the Administrator, the Grantor shall deliver a Notice of Cause for Termination to the Concessionaire and the Lenders asking them to prove within forty five (45) days the fulfillment of the Concessionaire's obligations or present its discharges and the evidence that supports its defense. If there are pending obligations, by administrative resolution the Grantor will order the Concessionaire to remedy the breach within sixty (60) days.

Once the term contemplated in the preceding paragraph has expired without the Concessionaire and/or the Lenders having remedied the event or breach that gave rise to the invoked cause or at any time after delivery by the Concessionaire and/or the Lenders to the Grantor of a communication indicating that the Concessionaire and/or the Lenders will not remedy the event or default, the Grantor will deliver a Notice of Termination to the Concessionaire, with a copy to the Representative of the Lenders. The termination date shall be deemed to have occurred on the date on which the Grantor sends the Termination Notice to the Concessionaire.

- 5. Rescission. The LOSPEE Regulation (Art 136 c) indicates that for the rescission the provisions of the Civil Code will be observed.
- 6. Resignation of the Concessionaire. Before accepting it, the MERNNR must evaluate that said resignation does not affect the public interest.
- 7. Bankruptcy of the Concessionaire. The MERNNR may terminate the Concession Contract, provided that the bankruptcy of the Concessionaire is judicially declared.
- 8. Force Majeure or Fortuitous Event. Either of the parties may declare the Concession Contract prematurely and unilaterally terminated by the occurrence of a Force Majeure or Fortuitous Event, whose duration extends uninterruptedly for a period of more than one hundred and eighty (180) days.
- 9. Causes attributable to the Grantor or to another Government Authority. The Concessionaire may declare the Concession Contract prematurely and unilaterally terminated in the following cases:
  - a. When, by virtue of a regulation, act or omission of the Grantor, a serious and unjustified breach of the Grantor's obligations results, which prevents or significantly hinders the Concessionaire from executing the Concession Contract.
  - b. When, by virtue of a regulation, act or omission of any other Government Authority, the Concessionaire is prevented or significantly hindered from executing the Concession Contract.
  - c. When for any reason the implementation of the automatic reassignment mechanism of the Contracted Energy to the current PPAs is not effective, in the event of early termination of one or more PPAs for causes attributable to the Distributors or Force Majeure or Fortuitous Event, in accordance with the provisions of the PPAs.

Once a cause for termination of the Concession Contract is produced, the Concessionaire must send the Grantor a Notice of Cause for Termination requiring it to rectify the event or breach that gave rise to the grounds invoked within a period that may not be less than sixty (60) business days nor more than one hundred twenty (120) business days from the date of delivery of such Notice of Cause for Termination.

Upon expiration of the period provided for remedying the breach without the Grantor having corrected or rejected the Notice of Cause for Termination, the Concessionaire will deliver to the Grantor a Notice of Termination, with a copy to the Representative of the Lenders.

#### **Effects of Early Termination of the Concession Contract**

In all cases of termination of the Concession Contract, a technical, economic and legal evaluation of the assets and liabilities of the Project must be done through an independent company accepted by the parties and the Project will be reversed to the Ecuadorian State. The Grantor will be obliged to open a new tender process to award a new concession contract for the Project, provided that is technically and economically feasible. The effects of early termination of the Concession Contract depend on the cause of termination, as follows:

1. Expiration declared by the Grantor, rescission, resignation of the Concessionaire, bankruptcy of the Concessionaire or Force Majeure or Fortuitous Event<sup>10</sup>: The new concessionaire resulting from the new tender for the concession will acquire the obligation to honor the Secured Debt, assuming the position of debtor before the Lenders, responding up to the limit of the value of the Project assets. The amounts resulting from the fines collected and the guarantees executed, if applicable, as part of the settlement process by termination of the Concession Contract for the reasons indicated in this paragraph, may be used to pay the Secured Debt. In the cases of termination of the contract due to Force Majeure or Fortuitous Event, the Grantor will not execute the guarantees provided by the Concessionaire.
2. Mutual agreement of the parties: The termination must be implemented by means of a public deed, prior to determining that it will not affect the public or State interest. The Grantor will compensate the Concessionaire by paying the amounts of the Secured Debt and equity that have not yet been paid or reimbursed in accordance with what is established in the Secured Debt documents. This compensation will include the following:
  - a. The Secured Debt pending payment, including unpaid interest and breaking costs of the financing agreements; and
  - b. The equity investment not reimbursed to the shareholders at the time of termination.
3. Causes attributable to the Grantor or other Government Authority: The Grantor will compensate the Concessionaire by paying the amounts of the Secured Debt and equity that have not yet been paid or reimbursed in accordance with what is established in the Secured Debt documents. This compensation will include the following:
  - a. The Secured Debt pending payment, including unpaid interest and breaking costs of the financing agreements, deducting any benefits derived from the termination of the hedging agreements of the loan contracts, any insurance proceeds that have been received, and any other sum recovered by the Lenders before the date of payment of the compensation for termination;
  - b. The equity investment not reimbursed to the shareholders at the time of termination;
  - c. Payments for dismissal of employees of the Concessionaire as a direct result of the termination of the Concession Contract;
  - d. Costs for early termination of contracts with the Concessionaire's subcontractors; and
  - e. Any unpaid invoice or charge resulting from the settlement of the PPAs on the termination date.

On the settlement date, the Concessionaire shall pay to the Grantor any amount owed due to the termination of the Concession Contract, including the amount of fines and sanctions that are firm and remain unpaid.

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<sup>10</sup> When the Force Majeure or Fortuitous Event is caused by acts or omissions of a Government Authority, it will be considered as termination for cause attributable to Government Authority for the purposes of determining the effects of the early termination.

Link between termination of the Concession Contract and the PPAs:

- If a PPA has an early termination for causes attributable to the Distributor or by Force Majeure or Fortuitous Event, the Contracted Energy of such PPA will be redistributed among the rest of the PPAs, applying the Settlement Factor. The early termination of any PPA will not affect the term of the Concession Contract and will not give the Concessionaire an early termination payment from the respective Distributor.
- If the Concession Contract has an early termination, this will cause an early termination of all the PPAs. In this case, any termination payment will come only from the MERNNR under the Concession Contract, not from the PPAs.

## 6. Dispute Resolution Mechanisms

### The Mechanisms

The parties will settle their disputes in good faith and through negotiation. If the parties do not reach an agreement within fifteen (15) days after delivery by one party to the other party of a written communication indicating the existence of a controversy, any of the parties may submit such controversy to the following mechanisms:

#### 1. Friendly Conciliation Solution

Any of the parties may refer the differences to a Conciliator designated by both parties, based on criteria of impartiality and technical knowledge on the subject matter of the conciliation. The procedure for this case will be as follows:

- a) The parties will present their arguments with support information to the Conciliator within thirty (30) calendar days from the date of their appointment.
- b) The Conciliator will prepare and deliver the report to the parties within ninety (90) calendar days of the delivery of information.
- c) If a difference arises between the parties regarding the meaning, interpretation or scope of the report, any of them may request its correction or clarification to the Conciliator within a period of fifteen (15) calendar days of notification of the opinion.
- d) The Conciliator will prepare and deliver the report to the parties within a period of fifteen (15) calendar days from the date of the last request for clarification.
- e) If the parties accept the Conciliator's report, they will sign an agreement that will be contractually binding.
- f) The expenses and fees demanded by the Conciliator's intervention will be divided equally.

#### 2. Mediation

The mediation may be carried out before a mediator from the Mediation Center of the State Attorney General's Office. After finalizing the mediation process, it will conclude with the signing of a document stating the total or partial agreement, or the impossibility of having achieved any if that is the case. This document in which the agreement is recorded has the effect of an enforceable sentence and a matter decided (*res judicata*) and will be executed in the same way as the sentences of last instance following the route of urgency, without the execution judge accepting any exception, except those that originate after the signing of the mediation act.

#### 3. Arbitration

All disputes arising from or related to the Concession Contract that have not been resolved by direct negotiation or prior conciliation of technical differences, will be resolved by Arbitration, in accordance with the International Commercial Arbitration Regulations of the Arbitration and Mediation Center of the Santiago Chamber of Commerce, in force at the time of its inception. The place of the Arbitration will be the city of Santiago, Chile.

The Concession Contract will be governed and interpreted in accordance with the laws of the Republic of Ecuador. Although a dispute is submitted to Arbitration, the Parties must continue to comply with their obligations under the Concession Contract.

### **Resignation of the Majority Controlling Shareholder to claim under a Bilateral Investment Treaty**

The submission of a dispute to Arbitration by the Concessionaire will prevent the Concessionaire, the Strategic Partner or the foreign controlling shareholder, from claiming under a bilateral investment treaty for the same facts or measures. Therefore, in order to initiate an arbitration request, the Concessionaire must present, as a condition for its validity:

- The resignation of the Strategic Partner or foreign controlling shareholders to file claims under a bilateral investment treaty in relation to the facts and measures that are questioned in the dispute submitted to arbitration; and
- An indemnity commitment from the Concessionaire for the claims of non-controlling foreign shareholders under a bilateral investment treaty in relation to the facts and measures that are questioned in the dispute submitted to arbitration.

## **7. Guarantees in Favor of the Grantor**

In order to guarantee the fulfillment of its obligations according to the Concession Contract and the applicable laws and regulations, including the payment of the penalties established by the Concession Contract, the Concessionaire should deliver to the Grantor the following:

1. Guarantee of Compliance with the Terms of Construction of the Electrical Infrastructure:
  - a. Amount: USD equivalent to 5% of the investment cost of the project (CAPEX) included in the Economic Offer in the PPS.
  - b. Validity: From the signing of the Concession Contract until the Declaration of Commercial Operations of the Project.
  - c. Initial and Subsequent Terms: At least one (1) year from the signing date of the Concession Contract, and must be renewed for one (1) year, successively, no later than fifteen (15) days before the corresponding expiration date.
  - d. Conditions: Must be unconditional, irrevocable and collectible immediately.
  - e. Return: Prior to the return of this guarantee, the Concessionaire must issue the Guarantee of Compliance with the Operation Obligations.
2. Guarantee of Compliance with the Operation Obligations:
  - a. Amount: USD equivalent to 2% of the estimated annual billing, assuming that the generation of the Photovoltaic Plant corresponds to the Annual Average Energy.
  - b. Validity: From thirty (30) days before the Declaration of Commercial Operation of the Project and until the signing of the settlement act of the Concession Contract
  - c. Initial and Subsequent Terms: At least one (1) year from the initial date of delivery, and must be renewed for one (1) year successively, no later than fifteen (15) days before the corresponding expiration date.
  - d. Conditions: Must be unconditional, irrevocable and collectible immediately.
  - e. Return: The Grantor must return this guarantee to the Concessionaire on the date of termination of the Concession Contract due to the fulfillment of its term or due to any cause beyond the responsibility of the Concessionaire (mutual agreement).

## **8. Insurances**

The concessionaire must contract the development of a risk study with a company with verifiable experience, and based on such study, will contract and maintain the following insurance policies from the beginning of construction:

1. Civil Liability Insurance Policy against any damage, loss or injury that may occur to goods and people:
  - a. The Concessionaire must contract and keep in force this insurance, necessary to face the responsibilities that may be incurred before third parties due to the obligations derived from the Concession Contract, during the construction, operation, maintenance and retirement of its facilities.
  - b. It must cover an amount not less than the one indicated by the risk study. The amounts and coverage in each case will be the sole responsibility of the Concessionaire.
2. All Risk Insurance Policy:



- a. The Concessionaire must contract and keep in force this insurance to ensure coverage of all risks during the construction and operation periods. Risks must include, at least, those caused by water or flood, earthquake, landslides, fire, terrorism, vandalism, civil commotion, robbery, theft, illegal appropriation, popular disturbances, malicious acts and acts caused by error or failure of third parties.
  - b. The sums received as a result of the insurance against all risks will be used exclusively for the reconstruction or repair of the damaged facilities.
  - c. It must cover an amount not less than the maximum probable loss determined by the risk study.
3. Other Insurance Policies: The Concessionaire must contract at his own expense, and keep in force throughout the Concession period, insurances that cover the following:
- a. Risks and amounts not covered by the Social Security Ecuadorian Institute (*Instituto Ecuatoriano de Seguridad Social* or "IESS") circumscribed to occupational diseases, total or partial disability or death of own employees or employees of subcontractors linked to the execution of the Concession Contract;
  - b. Medical services to workers not covered by the IESS.
  - c. Payment of wages due to illness for periods not covered by the IESS, up to a limit of one (1) year.

The Concessionaire must deliver to the Grantor and to the Administrator, certified copies of the contracted policies prior to the start of the preliminary works of the construction of the Project and the policies must remain in force until all the obligations that remain pending after the termination of the Concession Contract have been fulfilled. The same will proceed for the renewal of the policies, which must be sent at least fifteen (15) calendar days before their annual expiration dates.

The Concessionaire must contract these insurance policies with companies of recognized prestige established in Ecuador, setting the Grantor as the second beneficiary, it being understood that obtaining these insurances will not relieve the Concessionaire of the responsibility that would correspond to it for claims whose amount is higher than the value of the insurance contracted, value for deductibles, exclusions (with the exception of those general exclusions provided for in these insurances), deductions, among others, as well as in the event that the insurance companies do not pay the compensation for any reason that whatever.

It will be the responsibility of the Concessionaire to verify that the insurance that it contracts has the respective reinsurance contracts granted with first-category companies whose risk rating is at least "A" in any of its forms, in such a way that the risks to be covered are backed by one hundred percent, and that these contracts remain in force for the entire time for which the contracted insurance contracts last.

Without prejudice to what is established in this section, it will be the responsibility of the Concessionaire to contract all the policies that guarantee the adequate execution and implementation of the Project.

## Annex III: The PPA Details

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The LOSPEE establishes that legal persons engaged in generation activity, such as the Concessionaire, have the obligation to sign PPAs with the Distributors, in proportion to their regulated demand. Therefore, the Concessionaire will sign PPAs with all the Distributors of the SNI in Ecuador, although the Project will only deliver energy to the Baltra and Santa Cruz islands.

The PPAs will have the same tenor of the Concession Contract.

### 1. Revenues of the Concessionaire

The revenues of the Concessionaire will come from the PPAs and will be composed of two parts:

- b) A **“Fixed Charge”** that will remunerate the Concessionaire for the availability or firm energy contribution of the Project. For each PPA, the Fixed Charge:
- Will be paid on a monthly basis to the Concessionaire.
  - Will be determined as an annual amount (to be divided by 12) calculated as follows:
    - Seventy percent (70%) of the energy price included in the Economic Offer awarded in the PPS, expressed in USD/MWh; multiplied by
    - 23,795 MWh (the “Annual Average Energy”).
  - Will correspond sixty percent (60%) to the Photovoltaic Plant and forty percent (40%) to the BESS.
  - Will be recognized proportionally to the availability of the Photovoltaic Plant and the BESS. In order to do so, the amount of the Fixed Charge correspondent to each component will be multiplied by the following availability factors (each one an “Availability Factor”):
    - For the Photovoltaic Plant: Average Available Power per hour/Effective Power (each term expressed in MW) equal to 1 if such factor is equal or higher than 0.96, or the resulting Availability Factor divided by 0.96 if such factor is lower than 0.96.
    - For the BESS: Average Available Storage Capacity per hour/Effective Storage Capacity (each term expressed in MWh) equal to 1 if such factor is equal or higher than 0.96, or the resulting Availability Factor divided by 0.96 if such factor is lower than 0.96.
  - Will be multiplied by a settlement factor (the “Settlement Factor”) to assign the part of the Fixed Charge correspondent to each Distributor. The Settlement Factor is defined in the PPA as, for each month, the relationship between the Regulated Demand<sup>11</sup> of a Distributor and the sum of the Regulated Demands of all the Distributors with which the Concessionaire has current PPAs<sup>12</sup>, multiplied by the factor for the application of the mechanism for the settlement of the cost of electricity generation and transmission defined by ARCERNNR and which will be applied by CENACE in accordance with the Dispatch and Settlement Regulations<sup>13</sup>.
  - Will not be reduced by any unavailability of the Project that is not attributable to the Concessionaire.
- c) A **“Variable Charge”** that will remunerate the Concessionaire for the operation and maintenance of the Project, and will vary depending on the magnitude of the Contracted Energy (as defined below). For each PPA, the Variable Charge will be calculated as follows:
- Will be paid on a monthly basis to the Concessionaire.

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<sup>11</sup> Regulated Demand definition (LOSPEE Regulation): Power demand and consumption of end-user energy. Includes consumption of general public lighting.

<sup>12</sup> Interpretation: The division of the Regulated Demand of a Distributor by the total Regulated Demand of all Distributors with which the Concessionaire has current PPAs.

<sup>13</sup> Dispatch and Settlement Regulations refers to the set of regulations issued by ARCERNNR that governs the economic dispatch and settlement of transactions of the SNI and the Isolated Systems executed by CENACE and the Distributors, as appropriate and in accordance with the provisions of the LOSPEE and its Regulation.

➤ Will be calculated as follows:

- Thirty percent (30%) of the energy price included in the Economic Offer awarded in the PPS, expressed in USD/MWh (the “Energy Price”); multiplied by
- The “Contracted Energy”, calculated as follows:
  - All the energy injected by the Project into the Baltra - Santa Cruz Isolated System at the connection point (the “Supplied Energy”); multiplied by
  - The Settlement Factor, to assign the part of the Variable Charge correspondent to each Distributor.
- The Energy Price will be adjusted annually on January by:
  - Multiplying the Energy Price by an adjustment factor that recognizes the annual local inflation, with a maximum annual ceiling of 4.66% (if annual inflation is negative, it will be considered as zero); and then
  - Adding it an amount expressed in USD/MWh that recognizes increases in (i) items or aliquots, derived from changes in the Dispatch and Settlement Regulations, and (ii) fees, contributions and taxes from GADs (all of them the “RATCI”). Such increases will be determined as a percentage (the Percentages of Additional Costs”), calculated as follows:
    - The sum of the RATCI planned for year “i” in which the Energy Price adjustment is required (“RATCI<sub>i</sub>”) minus the sum of the RATCI for the calendar year of generation immediately after the Commercial Operation start date of the Project (“RATCI<sub>base</sub>”); divided by
    - The Concessionaire’s income calculated for an average scenario: The energy price included in the Economic Offer awarded in the PPS (USD/MWh) multiplied by the Annual Average Energy (23,795 MWh).
  - The increase of the Energy Price by the RATCI (i) will be applicable only when the Percentage of Additional Costs reaches an amount that exceeds 1% of the Concessionaire’s income calculated for an average scenario, and (ii) will be calculated as follows:
    - The sum of the RATCI<sub>i</sub> minus the sum of the RATCI<sub>base</sub>; divided by
    - The Annual Average Energy (23,795 MWh)
  - The Concessionaire must submit to ARCERNR, with copy to CENACE, the necessary information to calculate the Energy Price adjustments until December 15<sup>th</sup> of the year prior to the one for which the adjustment is required.

The Contracted Energy during the experimental testing stage will be remunerated at the Energy Price, but no Fixed Charge will be recognized to the Concessionaire at this stage.

Any energy loss due to transmission and storage prior to its injection at the connection point will be borne by the Concessionaire and will not be remunerated by the Distributor.

The Project will be part of the economic dispatch carried out by ELECGALÁPAGOS in accordance with the procedures defined in the Dispatch and Settlement Regulations. Although the Project is a non-conventional renewable energy provider, it will not have preferential dispatch conditions because it has a BESS.

## 2. Transmission Tolls and Other Charges

The Distributor will be responsible for paying the transmission toll charge, settled by CENACE, in accordance with current regulations.

The Concessionaire shall pay the costs imposed by the applicable law and the Dispatch and Settlement Regulations to the generating agents, including the charge for expenses of CENACE.

### 3. The Trust

The MERNNR will constitute the Trust Agreement for the Administration of Payments of Obligations of Electricity Distribution and Commercialization Companies (the "Trust") for cancellation of obligations between participants in the electricity sector. This will be the mechanism to ensure the collection of cash flow from all the Distributors of the SNI and pay the generators, such as the Concessionaire, for the transactions with the Distributors under the PPAs. The Trust will be fed by the collection of payments from the end users made by the Distributors. The Distributors shall assign all the collection rights of the assets entrusted to the Trust. The payments that the trustee will make with the Trust assets will be subject to an order of priority established in the Trust agreement.

### 4. Liquidation, Billing and Payment

#### **Liquidation**

On a monthly basis, the CENACE will determine the commercial transactions carried out between the Concessionaire and each of the Distributors under the PPAs, corresponding to the Fixed Charge and the Variable Charge. CENACE will publish the settlement of the transactions and will receive comments from the Concessionaire or the Distributors, in accordance with the deadlines established in the regulation issued by ARCERNNR.

#### **Billing**

After the monthly settlement made by CENACE within the deadlines established in the regulation issued by ARCERNNR, the Concessionaire will invoice the Distributors, with a copy to the Trust, for the Contracted Energy in the month.

#### **Payment**

Once the Distributor and the Trust receive the invoice from the Concessionaire, the procedure is as follows:

1. Within five (5) days, the Distributor can present any claim to the Concessionaire regarding any discrepancy between the invoice and the settlement published by CENACE or the applicable law.
2. In case there is an objection to the invoice from the Distributor:
  - a. The Concessionaire should correct it or issue a new one within five (5) days counted from the claim reception.
  - b. If the Concessionaire does not respond to the Distributor's objection within the established term, the Distributor will instruct the Trust to pay the Concessionaire the value of the invoice minus the amount objected.
  - c. If the Concessionaire disagrees with the objection presented by the Distributor, the latter will instruct the Trust to pay the total amount of the invoice issued by the Concessionaire until the difference is resolved. If the difference is resolved in favor of the Distributor, the Trust will deduct the corresponding values from the payment of the invoice following the date of resolution of the difference, plus the corresponding interests stipulated in the PPA, on the value objected and canceled within the payment deadline.
  - d. In case the mentioned difference occurs, it should be resolved by mutual agreement or through the disputes resolution mechanism established in the PPA.
3. The Trust will make the payment of the amount detailed in the invoice once the instruction is received from the Distributor, within the following forty-five (45) calendar days counted from the notification of the invoice by the Concessionaire. If the corresponding values have not been canceled after said period, the Concessionaire will inform ARCERNNR, in order to adopt the actions provided for in the LOSPEE, with regard to the infractions and sanctions regime. These deadlines are defined without prejudice to those that will be established in the Trust agreement.

#### **Re-settlement**

In case one of the parties has objections to the settlement published by CENACE, it may go to ARCERNNR to resolve the difference, but in no case will it suspend the settlement, billing and monthly payment process established in the PPA.

In the event that CENACE, in application of the Dispatch and Settlement Regulations, makes re-settlements to the commercial transactions for the sale of energy, the Distributor or the Concessionaire, will credit in favor of the other party the values that as a result of the re-settlements correspond. These accreditations will be considered by the Trust and incorporated in more or less to the payment of the billing corresponding to the following month.

## 5. Transfer of Rights and Obligations

- The rights and obligations of the Concessionaire under the PPA may not be assigned, encumbered or disposed of without the prior written consent of the Distributor, except in the cases mentioned in the next section (Credit and Contractual Position Rights).
- The rights and obligations of the Distributors under the PPAs may not be assigned, encumbered or disposed of without the prior written consent of the Concessionaire.

## 6. Lenders' Rights

The Concessionaire will inform the Distributor the name of the legal person with legal address in Ecuador appointed as the only Representative of the Lenders, who will exercise the rights of the Lenders under the PPA.

### **Credit and Contractual Position Rights**

The rights and obligations of the Concessionaire under the PPA may be assigned, encumbered or disposed of without the prior written consent of the Distributor only in cases where the Concessionaire:

- Assigns its credit rights under the PPA in favor of the Lenders as a guarantee for the repayment of the Secured Debt;
- Conditionally assigns its contractual position under the PPA in favor of the Lenders as security for the repayment of the Secured Debt; and/or
- Assigns its collection rights under the PPA to any Lender as a guarantee for the repayment of the Guaranteed Debt

### **Lenders' Consents**

The following acts of the Concessionaire will be valid under the PPA, only if they count with the previous written approval from the Representative of the Lenders:

- The consent of the Concessionaire to the early termination of the PPA by mutual agreement, in accordance with the provisions of the termination clauses of the PPA;
- The consent of the Concessionaire to any modification or addendum to the PPA; and
- The delivery of any written communication by means of which the issuing party:
  - Notifies the receiving party of the occurrence of a cause for termination of the PPA ("Notice of Cause for Termination");
  - Declares the termination of the PPA ("Notice of Termination"), or
  - Requests for revision of the PPA conditions (to reestablish the economic-financial equilibrium).

### **Remediation by the Lenders**

In the event that the Distributor has delivered a Notice of Cause for Termination to the Concessionaire and the latter has not remedied the breach or event that gave rise to the corresponding termination cause during the ninety (90) business days provided in the PPA (extendable up to additional ninety (90) business days), the Lenders may:

- Express their intention to correct such non-compliance or event, by sending a communication to the Distributor, ARCERNNR and the Trust within thirty (30) business days counted from the expiration of the remediation period of the Concessionaire; and
- Correct such non-compliance or event within the term granted by the Distributor, which may not be less than thirty (30) days from the communication date indicated in the previous point.

Once the period of correction granted to the Lenders has expired without the breach or event that gave rise to the termination cause has been corrected, the Distributor will have the right, but not the obligation, to declare the termination of the PPA, in accordance with the provisions of the termination clauses of such contract.

### **Communications to Lenders**

The Distributor will deliver to the Representative of the Lenders, simultaneously with its delivery to the Concessionaire, a copy of any notification that the occurrence of a Force Majeure or Fortuitous Event has been verified ("Notice of Force Majeure or Fortuitous Event"), Notice of Cause for Termination or Notice of Termination.

### **Stipulations in Favor of Third Parties**

The Distributor and the Concessionaire acknowledge and accept the rights recognized in the PPA in favor of the Lenders and their sole Representative as rights in favor of third parties, and expressly and irrevocably waive any right that the Distributor or the Concessionaire may have under applicable law to revoke such rights once accepted.

## **7. Revision of the PPA**

### **Economic-Financial Equilibrium**

In the event that there are changes in economic, legal, or other conditions that are not attributable to the Concessionaire or the Distributor, are extraordinary, and result in excessive burdensome compliance with the PPA by any of the parties:

- The party that considers itself harmed may request the revision of the contractual conditions affected, by delivering a request for a revision of the contractual conditions to the other party.
- The party that receives a request for revision of contractual conditions may take a maximum of thirty (30) days to accept or deny the revision of the affected contractual conditions required by the other party.
- A decrease in electricity prices that may occur in the future may not be invoked to base a request for revision of contractual conditions in the terms of this Clause.

Notwithstanding the requirement by one of the parties to review the affected contractual conditions, all the terms and conditions of the PPA will remain valid and in force until:

- The parties reach an agreement on the revision of the affected contractual conditions. Such agreement will only take effect if the prior written consent of the Representative of the Lenders has been obtained, provided that said modifications are in accordance with current regulations, and safeguard the public interest and the continuity of the provision of the public electric energy service; or
- The revision of the affected contractual conditions is ordered through the applicable disputes resolution mechanism of the PPA, in which case all its terms and conditions will be maintained valid and in force as determined by an arbitration award.

## **8. Termination of the PPA**

### **Causes of PPA Termination**

The PPA can terminate due to any of the following causes:

7. Expiration of the Term of the PPA: The PPA will terminate at the end of its term.
8. Termination of the Concession Contract: The PPA will terminate if the Concession Contract is terminated by any cause.
9. Mutual Agreement of the Parties: The parties may terminate the PPA early by mutual agreement due to unforeseen technical or financial circumstances, provided they have the authorization of the MERNNR to do so. Such early termination will extinguish, partially or totally, the parties' contractual obligations in the state in which they are at that moment. The termination by mutual agreement will not imply the waiver of rights caused or acquired in favor of the Concessionaire or the Distributor.
10. Force Majeure or Fortuitous Event: Either of the parties may request the early and unilateral termination of the PPA if there is a Force Majeure or Fortuitous Event whose duration extends uninterruptedly for a period of more than one hundred eighty (180) days and the magnitude of such event prevents the fulfillment of the PPA.

The requesting party should deliver the other party a Notice of Cause for Termination. Said notification must contain: (i) a well-founded description of the invoked cause and its economic, financial and/or legal effects; and (ii) a proposal for the procedure to be followed for the early termination of the PPA.

Within sixty (60) business days of receipt of said notification, the notified party must: (i) admit the occurrence of the cause and accept or propose the procedure to be followed for the early termination of the PPA; or (ii) object the request on the grounds that the cause has not occurred.

If the notified party objects the request, the requesting party will have the right to submit the dispute related to this cause to the disputes resolution mechanism of the PPA.

11. Unilateral Termination for Breach of the Contractual Obligations of the Concessionaire: The Distributor may declare the PPA terminated early and unilaterally, in the following cases:

- The transfer or partial or total disposal of the rights or obligations of the Concessionaire under the PPA without the prior written consent of the Distributor, except in the case of a transfer permitted in favor of the Lenders (Credit and Contractual Position Rights);
- Failure to comply with any obligation of the Concessionaire not indicated in this point, provided that (i) such breach is serious and repeated and (ii) the Distributor has required the correction of such breach by delivering a notification to the Concessionaire, with a copy to the Representative of the Lenders, and the Concessionaire has not rectified it within the correction periods established in the Procedure for Early Termination by the Distributor.

12. Unilateral Termination for Breach of the Contractual Obligations of the Distributor: The Concessionaire may declare the PPA terminated early and unilaterally, in the following cases:

- Failure to pay three (3) monthly bills by the Distributor.
- The liquidation or dissolution of the Distributor.
- The assignment of the PPA by the Distributor without the prior written consent of the Concessionaire.

The early termination for causes attributable to the Distributor or by Fortuitous Event or Force Majeure, will produce the automatic assignment of the Contracted Energy to the other PPAs that remain in force, applying the Settlement Factor to the current PPAs. Such automatic assignment will not require any type of additional authorization from the Distributors.

#### **Procedure in Case of Early Termination of the PPA**

1. Procedure for Early Termination by the Concessionaire: In the event that the Concessionaire decides to promote the termination of the PPA as a result of the occurrence of any of the causes of PPA termination, with the exception of the cause of Force Majeure and Fortuitous Event, will follow the following procedure:
  - a) The Concessionaire will deliver to the Distributor, ARCERNR and the Trust the Notice of Cause for Termination;
  - b) The Distributor may correct its breach within a period of ninety (90) business days, extendable for an equal time, upon receipt of the Notice of Cause for Termination; and
  - c) Once the term has expired without the Distributor having remedied the event or breach that gave rise to the invoked cause, the Concessionaire will have the right to declare the early termination of the PPA, for which it must send the Distributor, with a copy to ARCERNR and the Trustee, a Notice of Termination informing the Effective Termination Date.
2. Procedure for Early Termination by the Distributor: In the event that the Distributor decides to promote the termination of the PPA as a result of the occurrence of any of the causes of PPA termination, with the exception of the cause of Force Majeure and Fortuitous Event, will follow the following procedure:
  - a) The Distributor will deliver to the Concessionaire, ARCERNR and the Trust the Notice of Cause for Termination;
  - b) The Concessionaire may correct its breach within a period of ninety (90) business days, extendable for an equal time, upon receipt of the Notice of Cause for Termination;

- c) Once the term has expired without the Concessionaire having remedied the event or breach that gave rise to the invoked cause, the Lenders may:
  - i. Deliver, through the Representative of the Lenders, a firm communication to the Distributor, ARCERNNR and the Trust indicating the intention of the Lenders to rectify such event or breach. Such communication must be delivered within thirty (30) business days after the expiration of the term provided in the previous section for the rectification by the Concessionaire; and
  - ii. Proceed to rectify such event, either directly or through the hiring of third parties to carry out such correction, within the term granted by the Distributor, which may not be less than thirty (30) days after the delivery of the firm communication of the Lenders indicated in the previous point.
  - iii. Waive, at any time during such correction period, their right to correct the breach by delivering, through the Representative of the Lenders, a firm communication to the Distributor, ARCERNNR and the Trust indicating so.
- d) After the term in the preceding point has expired without the Lenders having remedied the event or breach that gave rise to the invoked cause or if the Lenders give up their right to do so, the Distributor shall deliver a Notice of Termination to the Concessionaire, with a copy to the Representative of the Lenders.

In either case of early termination, the PPA will remain fully effective and in force and the parties must comply with all their obligations under it during the period between the date of the Notice of Termination and the Effective Termination Date.

Once the PPA is terminated for any cause, within sixty (60) calendar days the parties will proceed to prepare a Final Settlement Act, stating the volume of energy supplied during the term of the PPA, the amounts that the Distributor has paid to the Concessionaire, and the accounts payable from the Distributor to the Concessionaire as of the date of termination, for which the corresponding compensations must be made, if any.

The PPA doesn't establish an early termination payment to the Concessionaire. The Contacted Energy is automatically reassigned to the other PPAs that remain in force if the early termination occurs for causes attributable to the Distributor or by Fortuitous Event or Force Majeure. If there is an early termination of all the PPAs due to an early termination of the Concession Contract, any applicable termination payment to the Concessionaire will come from the Concession Contract.

## 9. Disputes Resolution Mechanisms

The PPAs will have the same Disputes Resolution Mechanisms as the Concession Contract.