

PART D

CONTRACTUAL JOINT VENTURE AGREEMENT

THIS AGREEMENT is entered into and effective as of this ____ day of _____ 2009 by and between the following Parties:

[WINNING PRIVATE SECTOR PARTICIPANT], a corporation duly organized and existing under the laws of the Philippines, with principal place of business at _____, herein represented by its [Designation], [Name], and [Designation], [Name], hereinafter referred to as the "Consortium";

- and -

METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, a government-owned and controlled corporation duly organized and existing by virtue of Republic **Act No. 6234**, as amended (its "Charter"), with business address at the 4th Floor, Administration Building, MWSS Complex, 489 Katipunan Road, Balara, Quezon City 1105, Philippines, herein represented by its Administrator, Atty. **DIOSDADO JOSE M. ALLADO**, who is duly authorized to represent it in this Agreement, hereinafter referred to as "**MWSS**".

WITNESSETH: THAT –

- A. MWSS is vested by its Charter with jurisdiction, supervision and control over all waterworks and sewerage systems in the territory comprising the cities of Manila, Pasay, Quezon, Cavite, Caloocan, Antipolo, Las Piñas, Makati, Mandaluyong, Marikina, Pasig, San Juan, Taguig, and Valenzuela; the municipalities of Cainta, Montalban, Navotas, Parañaque, Pateros and Taytay all of the Province of Rizal; and the municipalities of Bacoor, Imus, Kawit, Noveleta and Rosario all of the Province of Cavite.
- B. Pursuant to its mandate, MWSS is tasked to construct, maintain, and operate dams, reservoirs, conduits, tunnels, purification plants, water mains, fire hydrants, pumping stations, machineries and other waterworks for the purpose of supplying water to the inhabitants in its territory for domestic and other purposes.

- C. In the discharge of its responsibility, MWSS conducted, as early as the 1970s, studies, and came up with its Manila Water Supply III Project recognizing Kaliwa River in Tanay, Rizal as a potential source of water to address the supply requirements of metropolitan Manila which, due to urbanization, commercial and industrial development, and population growth in its territory, is projected to be 5600 million liters per day (MLD) by the year 2015 and 7000 MLD by the year 2025 and which cannot be supplied by its existing water sources.
- D. Recognizing the necessity for ensuring adequate water supply for Metropolitan Manila, the Consortium submitted an unsolicited proposal to MWSS (the "Unsolicited Proposal") along a joint venture undertaking for the development, financing, engineering and design, construction, and operation and maintenance of the Manila Water Supply III Project, also known as the Laiban Dam Water Supply Project (the "Project").
- E. Pursuant to Section 8 of Executive Order No. 423 dated 30 April 2005 as implemented by the Guidelines and Procedures for Entering into Joint Venture Agreements between Government and Private Entities as promulgated by the national Economic and Development Authority (NEDA) (the "Guidelines"), MWSS accepted the Unsolicited Proposal for the Project, conducted an evaluation thereof, subjected the same to third party competitive proposals, and after evaluation of the proposals found in the Unsolicited Proposal the most advantageous, and awarded the Project to the Consortium under a contractual joint venture arrangement.
- F. The Consortium is a joint venture stock corporation that is organized under the Philippine laws and registered with the Philippines Securities and Exchange Commission.

NOW, THEREFORE, in view of the foregoing premises, and the terms and conditions set forth herein, it is hereby agreed as follows:

SECTION I. DEFINITIONS

1.01. **Definitions.** In addition to the definitions set forth elsewhere in this Agreement, the following terms when used in this Agreement shall have the following meanings:

- (a) "**Affected Inhabitants**" has the meaning ascribed to it in Section 4.03 (a) (i)

(b) “**Affiliated Company**” means any legal person controlled by, under common control with or controlling one of the Parties, under common control with or controlling one of the Parties. For this purpose “control” shall mean the ownership of at least fifty-one percent (51%) of the voting stock of a company.

(c) “**Agreement**” means this Contractual Joint Venture Agreement including all Annexes forming an integral part hereof and any permitted amendments thereof.

(d) “**Annual Budget**” has the meaning ascribed to it in Section 6.02.

(e) “**Annual Business Plan**” has the meaning ascribed to it in Section 6.02.

(f) “**Business**” means the activities after the Financial Close, which shall be the development and operation of the Project, for the supply of treated water delivered in bulk to MWSS, to meet the water requirements of the Territory.

(g) “**Charter**” has the meaning ascribed to it in the paragraph above where MWSS is first identified.

(h) “**Contractual Joint Venture**” has the meaning ascribed to it in Section 2.01.

(i) “**Facilities**” means the hydro dam, hydropower plant, tunneling and pipelines, water treatment plants, transmission pipelines, and reservoirs to be developed, financed, designed, constructed, and operated and maintained by the Consortium, for the supply of treated water delivered in bulk to MWSS.

(j) “**FID**” or “**Financial Investment Decision**” means each of the parties to the Consortium having secured the relevant corporate approval to proceed with the implementation of the Project and to accept the terms and conditions of the Financing Documents and Project Documents and obligations imposed by the Financing Parties on the Consortium.

(k) “**Financial Close**” means the satisfaction of all conditions precedent under the Financing Documents for the third party debt financing of the Project and the first disbursement of funds by the Financing Parties thereunder.

(l) “**Financing Documents**” means the agreements under which the Financing Parties provide loans or extend credit or other financing to the Consortium to cover at least seventy percent (70%) of the total Project Costs under such terms and conditions mutually acceptable to the Consortium and the Financing Parties, together with any and all other instruments executed and delivered in connection therewith.

(m) “**Financing Parties**” means the financial institutions that provide loans or extend credit or other financing to the Consortium pursuant to the Financing Documents.

(n) “**Guidelines**” has the meaning ascribed to it in Recital (E).

(o) “**Initial Funding**” has the meaning ascribed to it in Section 3.04(b).

(p) “**Management Committee**” has the meaning ascribed to it in Section 5.01.

(q) “**Offeror**” has the meaning ascribed to it in Section 7.03(b).

(r) “**Offeree**” has the meaning ascribed to it in Section 7.03(b).

(s) “**Offered Interest**” has the meaning ascribed to it in Section 7.03(b)

(t) “**Parties**” means the Consortium and MWSS, and “**Party**” means any one of them.

(u) “**Participation Interest**” means the rights and liabilities and obligations of a Party determined under this Agreement and expressed as a percentage including:

(i) the contributions made by each Party to the Contractual Joint Venture;

(ii) the right to receive returns on the contributions made by the Parties;

(iii) the obligation, subject to the terms of this Agreement, to contribute its share of all expenditures and other Project Costs; and

(iv) all other rights, liabilities and obligations accruing to or incurred by a Party in or arising out of this Agreement.

(v) “**Permits**” has the meaning ascribed to it in Section 4.02(a)(i)(1).

(w) “**Pre-Financial Close Activities**” has the meaning ascribed to it in Section 2.02(b)(i).

(x) “**Post Financial Close Activities**” has the meaning ascribed to it in Section 2.02(b)(ii).

(y) “**Project**” has the meaning ascribed to it in Recital (D).

(z) “**Project Costs**” means the total amount of up to US\$[_____] necessary to complete the Project and achieve commercial operation.

(aa) “**Project Documents**” means such contracts necessary to implement the Project, including without limitation those listed in Section 4.05.

(bb) “**Project Team**” has the meaning ascribed to in Section 3.04(a).

(cc) “**Resettlement Packages**” has the meaning ascribed to it in Section 4.03(a)(iii).

(dd) “**Site**” means the land areas on which the Facilities shall be constructed and other land areas to be used for implementing the Project inclusive of the resettlement area.

(ee) “**Territory**” means the cities of Manila, Pasay, Quezon, Cavite, Caloocan, Antipolo, Las Piñas, Makati, Mandaluyong, Marikina, Pasig, San Juan, Taguig, and Valenzuela; the municipalities of Cainta, Montalban, Navotas, Parañaque, Pateros and Taytay all of the Province of Rizal; and the municipalities of Bacoor, Imus, Kawit, Noveleta and Rosario all of the Province of Cavite.

(ff) “**Transfer**” has the meaning ascribed to it in Section 7.01.

(gg) “**Third Party Expenses**” means all expenses for the procurement of goods or services from third parties in performing the Pre-Financial Close Activities.

(hh) “**Unsolicited Proposal**” has the meaning ascribed to it in Recital (D).

(ii) “**Watershed Program**” has the meaning ascribed to it in Section 4.04(a)(i).

1.02. Rules of Interpretation. In this Agreement.

(a) Where the context permits, the singular includes the plural and *vice versa* and one gender includes any gender. Words importing individuals shall be treated as importing corporations and *vice versa* and words importing the whole shall be treated as including a reference to any part hereof.

(b) A reference to a statute or other legislation shall be construed as a reference to that statute as from time to time re-enacted or amended.

(c) References in this Agreement to Sections, sub-sections, paragraphs and Schedules are references to those contained in this Agreement.

(d) Section headings are for ease of reference only and shall not be taken into account in construing this Agreement.

(e) The expression “including” shall not be construed as being by way of limitation and the expression “otherwise” shall not be construed as limited by words with which it is associated.

(f) Where a word or expression is defined or the construction of any word or expression is addressed, cognate words and expressions shall be construed accordingly.

SECTION II. JOINT VENTURE AND SCOPE OF OPERATIONS

2.01. Contractual Joint Ventures. The Parties agree to enter into a contractual arrangement pursuant to the terms of this Agreement whereby the Consortium and MWSS shall contribute and provide certain money/capital, services, assets (including [equipment], land, and intellectual property as detailed in this Agreement), or a combination of any or all of the foregoing, for the implementation of the Project, without forming a joint venture company or any other separate juridical entity, for the purpose (the “Contractual Joint Venture”). Thus, consistent with the Guidelines, the Parties shall share in the risks to jointly undertake the Project in order to meet the increasing water supply requirements of the Territory, with the objective

that the operation and maintenance of the Facilities will be complete responsibility of the Consortium.

2.02. Scope.

(a) The Parties agree that the Project shall include the following activities:

- (i) engineering, procurement and construction (EPC) of the Facilities which include:
 - a. Laiban Dam and Headworks
 - b. Raw Water Conveyance Facilities (Tunnel and Pipeline)
 - c. Water Treatment Plant (WTP) with 2,400 MLD Capacity
 - d. Powerhouse and Headcare with installed capacity of 25 MW
 - e. Treated Water Conveyance Facilities (Tunnel, Pipeline and Trunk Mains)
 - f. Storage Facilities
 - g. Pump and Pressure Control Stations
 - h. Metering Stations/Point
 - i. Off-take Facilities
 - j. Power Plant including Power Transmission Lines
- (ii) operation, maintenance and management of the Project;
- (iii) land acquisition and resettlement plan; and
- (iv) watershed protection and management

to be conducted pursuant to the targeted milestones as set out in Annex "B" as the same may be amended from time to time.

(b) The Parties shall conduct:

- (i) all activities required to bring the Project to Financial Close including but not limited to those activities identified as pre-FID tasks in Section IV, negotiate and complete the documentation of the Project Documents and the Financing Documents and upon an FID having occurred, do all things necessary to enable the Financial Close to occur ("**Pre-Financial Close Activities**"); and

- (ii) after the Financial Close, the Business throughout the term of this Agreement (**“Post Financial Close Activities”**).

2.03. Relationship between the Parties. It is understood that the Parties are co-venturers for the Project and to this end, the Business shall be conducted in the best interest of the Parties on sound commercial profit-making principles so as to generate the maximum benefits to the Parties, consistent with the MWSS mandate to protect public health and safety.

SECTION III. CONTRIBUTIONS/OBLIGATIONS OF THE PARTIES

3.01. Pooling of Resources. The Parties shall pool their respective resources for the Contractual Joint Venture, as provided in Section 3.01 and 3.02 hereof.

3.02. Contribution of the Parties.

(a) The contribution of the Consortium to the Contractual Joint Venture shall be in cash in the amount of the Project Costs. The Consortium’s Contribution shall be made in intervals as required by the Financing Documents.

(b) The contribution of MWSS to the Contractual Joint Venture shall include the items as detailed in Section 3.05 as well as cash, if required.

3.03. Project Finance

It is agreed that the Consortium will secure project financing for funding no less than seventy percent (70%) of the Project Costs under such terms and conditions mutually acceptable to the Consortium and the Financing Parties. The Parties shall extend the utmost cooperation and assistance to comply with any terms, conditions or amendments to be incorporated into the Project Documents that the Financing Parties shall request.

3.04. Pre-Financial Close Activities

(a) The Parties shall establish a project team to implement the Pre-Financial Close Activities (“Project Team”). The Consortium shall appoint five (5) members and MWSS shall be invited as an observer to attend Project Team meetings. The Project Team will delegate various aspects of the preparation of the Pre-Financial Close Activities to working groups which will report regularly to the Project Team.

(b) Notwithstanding any other provisions in this Agreement, until an FID is made, the Consortium shall be responsible to meet all expenditures incurred by the Contractual Joint Venture for all Pre-Financial Close Activities up to an amount of US\$5 million (“**Initial Funding**”). Such Initial Funding shall form part of the contribution required to be made by the Consortium under Section 3.02(a).

(c) Each Party shall bear its internal expenses (i.e. expenses other than Third Party Expenses) incurred or to be incurred in its performance of the Pre-Financial Close Activities, including travel costs. Such internal expenses shall not form part of the Initial Funding.

(d) Any agreement to be entered into pursuant to the Pre-Financial Close Activities must be approved by the Project Team and must be executed by the Consortium directly with the relevant third party. Any amount payable under each of such agreement shall be made by the Consortium but only up to the amount of the Initial Funding.

3.05. Contribution of MWSS. MWSS shall provide the following to the Contractual Joint Venture as required under Section 3.02(b):

(a) the sole, absolute, and irrevocable right to use the properties currently owned by MWSS where the Facilities will be established, as identified in Annex “B” attached hereto, with the corresponding appraised values thereof determined by an independent third party indicated therein;

(b) the properties currently owned by MWSS where one or more resettlement sites are to be established, as identified in Annex “B-1” attached hereto, with the corresponding appraised values thereof determined by an independent third party indicated therein;

(c) the perpetual use of the water rights necessary for the Project granted to MWSS by the National Water Resources Board; and

(d) the exercise of such rights and privileges vested in favor of MWSS, as provided under its Charter, inclusive of the exercise by MWSS of the right of eminent domain, to such extent as may be required to implement the Project.

3.06. Participation Interest in the Contractual Joint Venture. (a) On the basis of the value of the respective contributions of the Parties in the Contractual Joint Venture, and upon commencement of commercial operation, they shall have the following deemed initial pro-rata Participation Interest, to which extent they shall

share in the resultant net profits generated and/or losses sustained pursuant to Section 6.03:

Consortium	:	[90%]
MWSS		[10%]

Within six (6) months from execution of this Agreement, the Parties shall:

- (i) determine the manner and methodology to be used by the independent appraiser engaged by MWSS and acceptable to the Consortium which shall undertake the determination of the valuation of the contributions of MWSS in the Contractual Joint Venture, shall be used for the purpose of which the Contractual Joint Venture is created, and
- (ii) adjust the pro-rate Participation Interest of the Parties, based on the final valuation of the contribution of MWSS in the Contractual Joint Venture agreed upon by the Parties.

(b) The determination of returns on contributions made by each Party to the Contractual Joint Venture shall be subject to existing accounting principles, compliance of requirements under the Financing Documents and a verification process for operations and management expenses incurred by the Business, including without limitation any interest expense, fees, and other charges relating to financing of a portion of the Project Costs.

(c) Should the Consortium provide additional contribution over the Project Costs to the Contractual Joint Venture, the Participation Interest of the Parties shall be proportionately adjusted to take into account any such additional contribution made by the Consortium.

SECTION IV. UNDERTAKINGS OF THE PARTIES

4.01. Site.

- (a) Pre-FID Responsibilities. Prior to the FID.
 - (i) the Parties shall:
 - (1) identify the Site;
 - (2) survey the Site;

- (3) confirm the present state of ownership of the Site;
and
 - (4) determine the price and terms for the use or acquisition of any part of the Site to implement the Project and draft an agreement containing such price and terms.
 - (ii) MWSS shall:
 - (1) ensure that the land areas comprising the Site beneficially owned by MWSS as of the date hereof are free of encumbrances, suitable for use for the Project and fully accessible by the Consortium and other relevant persons for the implementation of the Project; and
 - (2) pursuant to Sections 3 (k) and (l) of its Charter, apply for and exercise its easement, eminent domain, right of way and similar rights and powers granted to it under its Charter in connection with infrastructure projects and work in order to cause the conversion of the Site to alienable and disposable land of the public domain where necessary for the Project and to ensure the success of the land acquisition and resettlement plan provided in Section 4.03.
- (b) **Post-FID Responsibilities.** After the FID and continuing after the Financial Close, MWSS shall:
 - (i) grant to the Consortium all the necessary property rights including easements and rights of way necessary and incidental to the use of the Site for the Project;
 - (ii) ensure that the Site including all the easements and rights of way necessary and incidental to the use of the Site shall continue to be available for the Project; and
 - (iii) grant to the Consortium the option to purchase all properties used in connection with the Project, such as, the alienable and disposable land pursuant to Section 4.01 under such terms and conditions agreed upon by the Parties and in the manner provided by law.

4.02. **Permits and Licenses.**

- (a) **Pre-FID Responsibilities.** Prior to the FID:
- (i) MWSS shall:
 - (1) assist the Consortium to identify all necessary national and local governmental and/or regulatory licenses in the Philippines for the implementation of the Project, including without limitation the construction of the Facilities at the Site (the “Permits”);
 - (2) assist the Consortium to prepare a schedule setting out the timing and procedures for the application for all Permits; and
 - (3) endorse and support the Consortium to apply for the Permits and ensure that such Permits are assignable to the Financing Parties as may be required by the Financing Documents;
 - (ii) the Consortium shall, with the assistance of MWSS, prepare all necessary documents for the application of the Permits (including any plans and studies required to be lodged with the application).
- (b) **Post-FID Responsibilities.** After the FID and continuing after the Financial Close, MWSS shall endorse and support the necessary governmental and/or regulatory licenses in the Philippines for the implementation of the Project, including without limitation the construction of the Facilities at the Site.

4.03. **Land Acquisition and Resettlement Plan.**

- (a) Before the FID, the Consortium shall, with the assistance of MWSS:
- (i) develop a land acquisition and resettlement plan for the inhabitants of the Site that will be directly affected by the Project (the “Affected Inhabitants”);
 - (ii) prepare an action plan for implementing the land acquisition and resettlement plan; and
 - (iii) negotiate compensatory resettlement packages with Affected Inhabitants (“Resettlement Packages”);

- (b) After the Financial Close, the Management Committee shall, with the assistance of MWSS:
 - (i) execute and implement all negotiated Resettlement Packages;
 - (ii) undertake the necessary judicial and/or extra-judicial measures with respect to Affected Inhabitants who have chosen not to accept Resettlement Packages prior to the FID; and
 - (iii) undertake the necessary actions to implement the land acquisition and resettlement plan or any amendments thereto required to achieve its purpose.

4.04. **Watershed Protection and Management.**

- (a) **Pre-FID Responsibilities.** Prior to the FID:
 - (i) the Consortium shall establish with the approval of MWSS, a watershed protection and management program for the Project (the “Watershed Program”).
 - (ii) MWSS shall:
 - (1) extend assistance to the Consortium in the protection and maintenance of Laiban watershed;
 - (2) endorse and support the Contractual Joint Venture in securing the cooperation of the relevant governmental instrumentalities, including without limitation the Department of Environment and Natural Resources, in the reforestation of the Laiban watershed;
 - (3) assist in ensuring that the relevant government instrumentalities refrain from granting any permit or authority to conduct any surface or subsurface activity in the Laiban watershed (including without limitation any logging or mining right); and

- (4) secure and deliver to the Consortium, copies of production sharing agreements and all similar agreements, if any, involving the Laiban watershed.

(b) **Post-FID Responsibilities.** After the FID and continuing after the Financial Close, MWSS shall ensure that the relevant government instrumentalities refrain from granting any permit or authority to conduct any surface or subsurface activity in the Laiban watershed (including without limitation any logging or mining rights).

4.05. **Implementing Contracts.** The Consortium shall use commercially reasonable efforts to negotiate and finalize, with the full cooperation of MWSS within one (1) year from the execution of this Agreement, as may be extended upon mutual agreement of the Parties, all Financing Documents and Project Documents (in form and substance acceptable to the Financing Parties), including without limitation the following:

(a) Agreements with reputable and qualified engineering, procurement and construction (EPC) contractors and suppliers of equipment and other materials;

(b) Project Management, Operation and Maintenance Technical Adviser, and/or other equivalent agreements for the purpose of overseeing the progress of the Project and the operation of the Facilities;

(c) Term Loan Agreements and other ancillary documents required by lenders in connection with the financing of the Project;

(d) Bulk Water Sales Agreement with MWSS for the purchase by the latter of treated water in bulk on a take-or-pay basis (including appropriate performance security), substantially including the terms and conditions attached hereto as Annex "C", commencing upon completion of the Facilities;

(e) Watershed Protection and Co-Management Agreement for the Laiban watershed, substantially including the terms and conditions attached hereto as Annex "D";

(f) Contracts with off-takers for the purchase by the latter of electricity to be generated by the hydropower plant constructed, operated and maintained pursuant to the Project;

(g) Agreements for the land acquisition, land use and resettlement of Affected Inhabitants; and

- (h) Appropriate insurance coverage for the Facilities.

Upon FID, the Consortium (and MWSS where it is a party) shall proceed to execute Project Documents and the Finance Documents and do all things necessary to achieve Financial Close.

4.06. **Facilities.** The Consortium shall hold title to all the Facilities that will be constructed for the Project, including such dams, reservoirs, power plant, and appurtenant structures thereof. The Consortium shall cause the registration of such rights in the registries of the relevant government instrumentalities.

4.07. **Technical Assistance and Other Services.** Each Party agrees to provide relevant technical assistance and information (including the rendering of other technical services by experts), as well as legal, finance, human resources, sales and other services, on a case-by-case basis as deemed necessary in the conduct of the Business. It is understood that the relevant Party shall charge the Contractual Joint Venture allocated costs and out-of-pocket expenses incurred in rendering such services.

4.08. **Intellectual Property.** MWSS hereby acknowledges that all systems, concepts, designs, processes, technologies and other technical information or know-how that the Consortium may have introduced or imparted and may, from time to time, introduce or impart in connection with this Agreement or the Contractual Joint Venture (the "Proprietary Information") is the intellectual property of, and proprietary to, the Consortium. MWSS hereby undertakes to keep confidential all the Proprietary Information, not to use the Proprietary Information or any part thereof except as required in the performance of its undertakings for the Project, and to restrict access to the Proprietary Information only to those of its directors, officers, employees, and advisers on a need-to-know basis and on the condition that such persons are aware of and maintain and confidential nature of such information.

4.09. **Ownership of Intellectual Property.** MWSS has no, and binds itself not to claim any ownership over any intellectual property rights to any and all systems, concepts, designs, processes, technologies and other technical information or know-how that the Consortium may create, formulate, implement or revise during the performance of its duties and responsibilities under this Agreement. MWSS understands and agrees that the intellectual property rights therefore remain with the Consortium.

4.10. **Exemption from Real Property and Local Business Taxes.** MWSS shall exert its best effort to assist the Consortium in securing an exemption from payment of real property taxes and local business taxes from the relevant local government bodies that may be imposed upon the Consortium by reason of the Project.

SECTION V. MANAGEMENT

5.01. The Contractual Joint Venture shall establish a management committee to govern the general management, finance, product, technical, logistics, and sales management of the Contractual Joint Venture (the "Management Committee"). The Management Committee shall consist of the same members of the board of directors of the Consortium.

5.02. The Management Committee shall hold its meetings at Mandaluyong City, Philippines, unless otherwise agreed.

5.03. The Management Committee shall agree on the details of corporate procedures consistent with the requirements set out in the Guidelines.

5.04. The management Committee shall:

(a) open and maintain one or more bank accounts wherein funding for the implementation of the Project, including any contributions of the Parties, as well as revenues generated by the Business, shall be deposited, and from which progress payments in connection with the construction, operation and maintenance of the Facilities, are to be released, which accounts shall be under dual control of the Parties;

(b) at all times keep true, accurate and up to date books and records of all the affairs of the Contractual Joint Venture;

(c) subject to confidentiality undertakings herein, at all times make available to the Parties and their duly authorized representatives full and complete access (including copying facilities) to the books, records, accounts, documents and office premises of the Contractual Joint Venture; and

(d) subject to confidentiality undertakings herein, supply to each Party such information relating to the Contractual Joint Venture as it may require and, without prejudice to the foregoing, keep the Parties fully and promptly informed as to all material developments regarding the Business and promptly notify the Parties of any significant events (including any litigation or arbitration) the outcome of which will or is likely to affect the Contractual Joint Venture or its Business, finances, assets or affairs.

5.05. Without prejudice to Section 5.04, the Management Committee shall:

(a) prepare and send to the Parties within three (3) months from the end of each of its fiscal years, audited accounts of the Contractual Joint Venture in the form of a management report (to be prepared in accordance with the accounting standards in the Philippines and certified by the external auditors of the Contractual Joint Venture);

(b) convene and hold a meeting among the Parties annually to approve the same; and

(c) provide MWSS such documents and information as may be reasonably required by MWSS for the purpose of the preparation and submission to the relevant governmental institutions or agencies the required reports specified under the Guidelines.

SECTION VI. OPERATION OF THE CONTRACTUAL JOINT VENTURE

6.01. Auditors, Fiscal Year, Books and Records. The Parties shall take whatever action may be necessary or appropriate to ensure that:

(a) an external auditor for the Contractual Joint Venture is appointed;

(b) the books and records of the Contractual Joint Venture are properly maintained; and

(c) the annual financial statements of the Contractual Joint Venture are prepared and issued.

6.02. Annual Budget and Business Plan. The Consortium will each year prepare and implement a budget and business plan for the Project with the consultation of MWSS ("Annual Budget" and "Annual Business Plan" respectively). Each Annual Budget and Annual Business Plan shall contain, among other things, capital spending, hiring of personnel, operating expenses, insurances, bonds, financial statements and estimate of the revenue of the Business over the upcoming fiscal year.

6.03. Returns. If after replenishing any prior capital deficits and establishing such reserves as may be required by approved spending or required under applicable Philippine law, and the Business has remaining net profits in any fiscal year, then after setting aside the required working capital and capital expenditure for the succeeding year pursuant to any approved Annual Budget or Annual Business Plan and satisfying any other requirements that the Finance Documents may have, the Parties shall do and take whatever action may be necessary or appropriate, to

ensure that such net profits shall be distributed to the Parties in proportion to their respective Participation Interest in the Contractual Joint Venture to the extent permitted under the Financing Documents.

SECTION VII. TRANSFER OF PARTICIPATION INTEREST

7.01. General Restriction on Transfer. Except in compliance with and as required or permitted in this Section VII and provided that any approval requirement of the Financing Parties under the Financing Documents have been duly obtained, no Party shall, directly or indirectly offer, sell, assign, transfer or grant a participation in, pledge, encumber or otherwise dispose of (collectively "Transfer") any of its Participation Interest in the Contractual Joint Venture to another person. Any attempt to Transfer all or a portion of its Participation Interest except in compliance with the foregoing shall be null and void and of no effect.

7.02. Permitted Transfer. Notwithstanding anything in this Agreement to the contrary, the Consortium may at any time Transfer all or a portion of its Participation Interest to one or more of its Affiliated Companies, and MWSS may at anytime Transfer all of its Participation Interest to one or more governmental agencies with the necessary mandate to implement the Project, so long as the details of such Transfer are notified to the other Party no less than five (5) business days prior to the occurrence of the same, and such Affiliated Company or governmental agency, as the case may be, shall have agreed in writing to be bound by the terms of this Agreement and the other related documents referred to herein, and to perform all duties and responsibilities of the transferring Party.

7.03. Rights of First Refusal.

(a) The Consortium hereby grants MWSS an irrevocable right of first refusal to purchase, in accordance with this Section VII, the Participation Interest that the Consortium desires to Transfer to any person, whether legal or natural, other than in accordance with Section 7.02.

(b) In the event that the Consortium (for purposes of this Section 7.03, the "Offeror") desires or intends to Transfer a portion or all of its Participation Interest (for purposes of this Section 7.03, the "Offered Interest"), it shall first offer the Offered Interest to MWSS (for purposes of this Section 7.03, the "Offeree").

(c) The consortium holding a substantial Participation Interest in the Project is hereby given the right to fix the purchase price and other terms and conditions at which it will be willing to Transfer its Offered Interest, which offer should be accepted within the period(s)

prescribed in Section 7.03(d). Otherwise, the Consortium may proceed to Transfer the Offered Interest to third parties at the same price, terms and conditions.

(d) The offer to MWSS shall be made in this manner. The Offer shall transmit the offer (which should contain the purchase price and other terms and conditions of the purchase of the Offered Interest determined pursuant to Section 7.03(c) above by registered mail to the Offeree. The Offeree shall have thirty (30) days from receipt of the written offer within which to signify its acceptance of the offer with respect to the Offered Interest. In the event acceptance is received from the Offeree for a proportion of the Offered Interest less than that offered, the Offeror will then be entitled to sell the remaining portion of the Offered Interest to any third party.

(e) Should the Offered Interest not be taken by the Offeree, the Offeror shall be free to Transfer said Offered Interest to any person or entity provided that such Transfer shall be consummated within a further thirty (30) day period for a price and upon terms and conditions as those offered to the Offeree.

7.04. Assumption and Discharge of Obligations. Any Transfer of Participation Interest of any nature by any Party to any third party shall be conditional upon the purchaser, transferee or assignee agreeing in writing to be bound by the terms and conditions of this Agreement, and to assume all obligations of the transferor in all other related Project Documents and Financing Documents and to perform all duties and responsibilities of the transferring Party hereunder.

7.05. Exit of MWSS from Project. Upon the reasonable determination by the Parties that the Consortium is able to the Business on its own, which shall in no case be later than twenty five (25) years from the start of operations of the Facilities, MWSS may exit from the Contractual Joint Venture by way of Transfer of its entire Participation Interest to a third party having the legal, technical and financial capabilities to perform the obligations of the MWSS under this Agreement, which submitted a superior or more advantageous offer, through a competitive selection process as required under the Guidelines, subject to the Consortium or its designee having a first to match such superior or more advantageous offer in accordance with Section 7.06.

7.06. Continuing Option. Upon exit of MWSS from the Contractual Joint Venture under Section 7.05 of this Agreement, MWSS shall grant the Consortium the right to match the said superior or more advantageous offer of a third party to purchase the Participation Interest of MWSS, within the period of thirty (30) days from receipt of notice from MWSS of the results of the competitive selection. In the event the Consortium so exercises its right to match the offer for the purchase of the said Participation Interest, MWSS shall award the sale of its Participation Interest to the

Consortium, and upon receipt of the price reasonably agreed upon by the parties, by appropriate deed, sell, transfer, and convey the Participation Interest to the Consortium. For the avoidance of doubt, the Parties hereby acknowledge and agree that no right, title or interest in the properties of MWSS shall pass to the buyer of the Participation Interest of MWSS, and MWSS shall continue to be liable for the obligations in connection with such properties not covered by its Participation Interest even after the said transfer, including its undertakings under Section 4.01.

7.07. **Exit of Consortium from Project.** After satisfaction of all obligations under the Financing Documents by the Consortium, in the event the Consortium determines to exit from the Project MWSS or its designee shall buy out the Participation Interest of the Consortium (inclusive of all properties of the Consortium in connection of the Project) at the price, terms and conditions fixed in accordance with Section 7.03(c) and assume all obligations of the Consortium under each Project Document. MWSS shall ensure that in case its designee will be the transferee of the Participation Interest of the Consortium, such designee shall have the legal, technical and financial capabilities to perform the obligations of the Consortium under this Agreement.

7.08. **Free from Encumbrances.** The Participation Interest and/or properties transferred pursuant to this Section VII include all rights, benefits and advantages attached thereto, and shall be free from any and all encumbrances thereon.

7.09. **Violation.** Any Transfer in violation of the foregoing restrictions shall be null and void.

SECTION VIII. REPRESENTATIONS AND WARRANTIES

As of the date of this Agreement, each Party makes the following representations and warranties, which have induced the other Party to enter into this Agreement.

a. **Organization.** It is a corporation duly organized, validly existing, and in good standing under the laws of the country of its incorporation.

b. **Legal Capacity.** It has full corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

c. **Prior Approvals.** It has taken all actions required by law or otherwise the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby including securing full government and regulatory approvals for the

Project and the necessary water rights, as well as all timber, mineral, mining and sub-surface rights in the Laiban watershed, for the diversion of water from the Kaliwa River to the Laiban reservoir in such quantities sufficient the needs of the Territory. In this connection, MWSS confirms its legal opinion, supported by the legal opinion of the Office of the Government Corporate Counsel, that the operation of the Facilities will not constitute public utility operation as to require a franchise, certificate of public convenience or other similar license.

d. **Absence of Conflicts.** The execution, delivery, and performance of this Agreement does not and will not violate or conflict with, result in a breach of, constitute a breach of, constitute a default under, or give rise to a right of acceleration or termination under (with or without notice, lapse of time, or both), (i) any law, regulation, rule, order, arbitration, award, judgment, decree or other similar restriction to which the Party is subject or by which it is bound; (ii) any provision or term contained in the incorporation documents or Charter of the Party, as the case may be; or (iii) any note, mortgage, indenture, bond, or contract, agreement, plan, instrument, lease, or permit to which it is a party or by which it is bound.

e. **Litigation.** There are no actions, lawsuits, proceedings, counterclaims, orders, or investigations pending, or to the Party's knowledge, threatened, against it, whether at law or in equity, which if adversely determined, would restrict or have a material adverse effect on the Party's performance under this Agreement or on the consummation of the transactions contemplated hereby. There are no injunctions, decrees or unsatisfied judgments outstanding against or relating to it which might have an adverse effect on, or that could interfere with, the Party's ability to consummate the transaction contemplated by this Agreement or otherwise perform its obligations hereunder.

f. **Against Corruption.** Neither the Consortium nor any of its representatives have offered any government officer and/or MWSS official and employee any consideration or commission for this Agreement, nor has it or its representatives exerted or utilized any corrupt or unlawful influence to secure or solicit this Agreement for any consideration or commission; that the Consortium shall not subcontract its obligations pursuant hereto to any person known by it to be an official or employee of any relevant governmental instrumentality unless agreed upon in writing with MWSS and acknowledged by MWSS's Board of Directors, or to the relatives within third degree of consanguinity or affinity of officials of the relevant governmental instrumentality who are directly or indirectly involved in contract awards or project prosecutions; and that if any commission is being paid to any

private person, the Consortium shall disclose the name of the person, the amount being paid, and that any material violation of this warranty shall constitute a sufficient ground for the rescission or cancellation of this Agreement or the deduction from the contract price of the consideration or commission paid, without prejudice to the filing of civil or criminal action under the Anti-Graft and Corrupt Practices Act and other applicable laws against the Consortium, its representative and/or MWSS, its officials and employees.

g. **Material Information.** None of the representations and warranties contains any untrue statement of a material fact or omit any material fact necessary in order to make the statements contained herein not misleading.

IX. DEFAULT

In the event that any Party shall be in default (the "Defaulting Party") of its obligations under this Agreement, or in case any of its representations and warranties herein be found to be false, misleading or inaccurate, and shall fail to remedy such breach (if capable of remedy) within ninety (90) days after being given notice to do so or in case of willful misconduct or gross negligence, such Defaulting Party shall indemnify the other Party (the "Non-Defaulting Party") against and save harmless from any and all claims, liabilities, losses, damages, costs, expenses and deficiencies including legal fees on a full indemnity basis, suffered, incurred or sustained by them in consequence of or in relation to any breaches of this Agreement. The non-defaulting Party shall have the right to (a) purchase the defaulting Party's Participation Interest at eighty percent (80%) of the market value or (b) require the defaulting Party to purchase its interest at one hundred twenty percent (120%) of the market value. The market value to be determined by a qualified independent appraiser mutually acceptable to both Parties.

X. TERM AND TERMINATION

10.01. **Termination Events.** This Agreement shall become effective as of the date first set forth above, and shall remain in force unless terminated upon occurrence of any of the following:

(a) The Parties mutually agree in writing that this Agreement be terminated;

(b) There is no FID one (1) year after the execution of this Agreement, unless extended by the Consortium with the consent of MWSS, which consent shall not be unreasonably delayed or withheld;

(c) Failure to achieve Financial Close by six (6) months after FID unless extended by the Consortium with the consent of MWSS, which consent shall not be unreasonably delayed or withheld;

(d) If all the Participation Interest of a Party are purchased and beneficially owned by the other Party or the latter's designee.

For the avoidance of doubt, the Parties declare and confirm that the consent required and referred to under paragraphs (b) and (c) above shall be deemed given by MWSS after ten (10) days from the relevant date the Consortium requests for such consent should MWSS fail to reply or act on the said request.

10.02. Effect of Termination. In the event of the termination of this Agreement or in case any of the Parties ceases to hold any Participation Interest in the Contractual Joint Venture for whatever reason, the provisions of this Agreement will cease to be applicable to such Party, save for such rights, benefits and obligations as have accrued to it, or been incurred by it, as the case may be, at the date of its ceasing to hold Participating Interest in the Contractual Joint Venture and the Consortium shall not be entitled to ask for any reimbursement from MWSS in relation to the Initial Funding. For the avoidance of doubt, any termination of this Agreement pursuant to Section 10.01(b) or (c) shall not be deemed to constitute a default by the Consortium, nor shall such termination give rise to the right of MWSS to claim damages for breach of this Agreement.

XI. DISPUTE RESOLUTION

11.01. Regular Meetings. Throughout the term of this Agreement, authorized representatives of the Consortium and MWSS shall meet regularly at not less than [quarterly] intervals to discuss the progress of the Project in order to ensure that the arrangements between the Parties proceed on a mutually satisfactory basis.

11.02. Amicable Settlement. In the event that there is any dispute, controversy, claim, or difference between the Parties arising out of or relating to this Agreement, or the breach thereof, or in the interpretation of any of the provisions hereof, the Parties shall endeavor to meet in an effort to resolve such dispute by discussion between them; but, failing such resolution, the Chief Executives of the Parties shall meet to resolve such dispute or difference, and the joint decision of such Chief Executives shall be binding upon the Parties. In the event that a settlement of any such dispute or difference is not reached within thirty (30) days from the date that one Party notifies the other Party that there is dispute that requires resolution, then the provisions of Section 11.03 shall apply.

11.03. **Alternative Dispute Resolution.** In the event that the Parties are unable to reach an amicable settlement in accordance with the provisions of Section 11.02, the Parties shall settle such dispute under the rules of the International Chamber of Commerce. The venue for arbitration shall be in Singapore.

11.04. **Enforcement of Award.** Subject to the foregoing provisions, any action to enforce an arbitral award pursuant to Section 11.03 may be instituted by either of the Parties in any competent court of the Philippines. Each of the Parties hereby irrevocably waives any objection which it may, now or hereafter, have to the laying of venue of any such suit, action or proceeding arising out of or relating to this Agreement brought in the aforesaid courts, and hereby further irrevocably waives any claim that any such suit, action or proceeding has been brought in an inconvenient forum.

11.05. **Waiver of Immunity.** To the extent that MWSS may in any jurisdiction claim for itself or its assets or revenues immunity from suit, execution, attachment (whether in aid of execution before judgment or otherwise), or other legal process and to the extent such immunity (whether or not claimed), MWSS agrees not to claim and irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction and of the Republic of the Philippines.

XII MISCELLANEOUS PROVISIONS

12.01. **Fees and Expenses.** Each Party to this Agreement shall pay its own fees and expenses incurred in connection with the negotiation and execution of this Agreement, including, without limitation, attorneys' fees.

12.02. **No Agency.** Each Party to this Agreement is an independent party. Nothing in this Agreement shall be construed to constitute any of the Parties as an agent, employee or legal representative of the other Party, and vice versa. None of the Parties shall have, nor represent itself to have, any authority to bind the other Party or to act on such other Party's behalf, except as set forth herein or in a duly executed power of attorney or other legally binding document.

12.03. **Confidentiality.** The Parties acknowledge that each of them may have access to the other's confidential business plans, strategies and other information in connection with this Agreement or its negotiation and agree to maintain all such information in confidence. None of the Parties shall disclose this Agreement or its content to any third person without the other Party's written consent except as required to fulfill applicable legal or regulatory requirements, including those of a stock exchange.

12.04. **Notices.**

(a) All notices pursuant to this Agreement shall be in writing and shall be delivered in person, or sent by first class mail, return receipt requested or delivered by express courier service, or telecopied (with hard copy to follow) to:

Consortium at: [Address]
Tel. No.
Fax No.
Attention:

MWSS at: [Address]
Tel. No.
Fax. No.
Attention:

(b) Any Party hereto may change its address by a notice given to the other party in a manner set forth above, but no such change shall be deemed to have been given until it is actually received by the Party sought to be charged with knowledge of its contents.

(c) All notices given as herein provided shall be considered to have been given, in the case of personal delivery, upon delivery, in the case of first class mail, upon receipt, in the case of express courier, upon receipt.

12.05. **Waiver, Amendment, Modification.** Any waiver, amendment, or other modification of this Agreement shall not be effective unless in writing and signed by the Party against whom enforcement is sought.

12.06. **Severability.** If any provision of this Agreement is held to be unenforceable, in whole or in part, by a tribunal of competent jurisdiction, such holding shall not affect the validity of the other provisions of this Agreement which are capable of severance and which will continue unaffected. The Parties shall then agree on such alternative provisions in replacement of the unenforceable provision(s) as closely aligned with the original intent of the Parties as possible.

12.07. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with laws of the Philippines.

12.08. **Entire Agreement.** This Agreement constitute the complete and entire statement of all terms, conditions and representations of the agreement between and among the Parties with respect to its subject matter and supersedes all prior negotiations, conversations, agreements or understandings, whether written or oral.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives identified below.

[WINNING PRIVATE SECTOR PARTICIPANT]	METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM
By: [Name] [Position] [Name] [Position]	By: DIOSDADO JOSE M. ALLADO Administrator

Signed in the presence of:

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) S.S.

At Quezon City, Metro Manila, this ___ day of _____, _____
personally appeared before me:

Name Competent I.D. No. Date/Place Issued

known to me and to me known to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their free and voluntary act and deed and that of the corporations they respectively represent.

This Agreement consist of _____ (____) pages including this page on which the Acknowledgment is written, signed by the Parties and their instrumental witnesses on all pages hereof and every page is sealed with my notarial seal.

WITNESS MY HAND AND SEAL on the date and place hereinabove mentioned.

Doc. No.: _____
Page No. : _____
Book No.: _____
Series of _____.

ANNEX "A"

TARGETED MILESTONES

ANNEX "B"

**PROPERTIES OF MWSS
WHERE THE FACILITIES WILL BE CONSTRUCTED/ESTABLISHED**

ANNEX "B-1"

**PROPERTIES OF MWSS
WHERE THE RESETTLEMENT SITES ARE TO BE ESTABLISHED**

ANNEX “C”

TERM SHEET OF THE BULK WATER SALES AGREEMENT (the “Agreement”)

PARTIES	- Private Sector Participant (PSP) and MWSS
TYPE OF CONTRACT	- Supply by PSP of bulk water to MWSS generated by the bulk water facility of Laiban Dam Project (the “Delivered Bulk Water”)
BASIS FOR THE SUPPLY	<ul style="list-style-type: none">- Construction of Laiban Dam and related facilities (the “System”) in accordance with the award of the Project to the PSP under a Public-Private Joint Venture Scheme, with the specifications and timetables for the completion of the construction and availability of the facilities to be annexed to the Agreement- Ownership of the System: PSP shall own the System- Operation of the System: PSP shall operate the System
OBLIGATIONS OF PSP	<ul style="list-style-type: none">- Supply the Delivered Bulk Water at the Water Delivery Point in accordance with the delivery schedule after Commercial Operation Date- 1,950 MLD guaranteed quantity of Delivered Bulk Water over a 12-month period (the “Guaranteed Volume”)- Quality Standards of the Delivered Bulk Water as per specifications- Penalty for failure to deliver the Guaranteed Volume of Delivered Bulk Water in accordance with the delivery schedule- Provide adequate insurance for the System- Limitation of liability in case of breach of its obligations

- Provide for performance security throughout the term of the Agreement

OBLIGATIONS OF MWSS

- Take delivery of the Delivered Bulk Water supplied at the Water Delivery Point and pay for the same in accordance with the fees and payment terms below or if not taken, pay for the Delivered Bulk Water in accordance with fees and the payment terms below
- Indemnity in case of breach of its obligations
- Submit the performance undertaking of the Republic of the Philippines, to secure MWSS' performance of its obligations (including but not limited to payment obligations and buy-out obligations under the Agreement)

CONTRACT PERIOD

- 25 years from start of operations of the bulk water facility of the Laiban Dam Project, renewable for the same period of time under conditions determined by the parties

FEES/TARIFF

- On a take-or-pay arrangement based on Guaranteed Volume, the total Bulk Water Fee shall be Php _____ per cu.m., subject to increase based on the increase in MWSS' Participation Interest as a result of the valuation of the contribution of MWSS in the Contractual Joint Venture agreed upon by the PSP and MWSS
- Adjustments in the Bulk Water Fee:
 - a. Forex
 - b. Consumer Price Index published by the National Statistics Office or such alternative index as the parties may mutually agree upon
 - c. Force Majeure
 - d. Change in Law and Change in Circumstances
- Interest on delayed payment
- Disputes on any invoice shall be resolved by the parties within [*] days from receipt by MWSS of the

disputed invoice. If not yet resolved during said period, MWSS shall pay the same under protest.

- No setting-off of claims, counterclaims, etc.
- Setting up of an Escrow Account where all payments received by MWSS from its concessionaires will be deposited therein as payment for the Delivered Bulk Water.

OTHER PERTINENT PROVISIONS

- 1. Procedures on the measurement and recording of Delivered Bulk Water
- 2. Force Majeure provisions:
 - a. Definition – acts of God, war (etc.), natural calamities (need to define further), and such events not within the control of the party affected which is unforeseen or unexpected, or even if foreseen or expected is inevitable and render the party affected unable to fulfill its obligations, includes inability to deliver the Delivered Bulk Water due to reasons not attributable to the PSP.
 - b. Notification and consultation
 - c. Effects of Force Majeure –
 - (i) if Force Majeure continues for [*] days, the Fees/Tariff may be adjusted
 - (ii) if Force Majeure continues for [*] days, the Agreement may be terminated
 - (a) Effect of Termination – MWSS to buy-out interest of PSP in the Project
- 3. Change in Law and Change in Circumstances:
 - a. Definition – any (i) change in law, rules or regulations, or interpretations thereof, or implementation of governmental actions or policies, or (ii) failure to obtain, or the subsequent termination, withdrawal,

rescission or amendment of, any approval granted by any government authority, which:

- Makes it unlawful or impossible for PSP to implement the Project, and/or perform its obligations,
 - Causes an unreasonable and unaffordable increase in the cost of such performance,
 - Has a material adverse effect on the expected financial return of PSP, or
 - Results in the impairment or dilution or material adverse effect on the ownership or interest of PSP in the Project or in the Agreement.
- b. Effect – The parties shall meet and agree on the increase (or decrease) in the Fees/Tariff or amendment in the performance of the obligations of the PSP.
- c. Effect of failure to agree – MWSS to buy-out interest of PSP in the Project
- 4. Representations and warranties of the parties
- 5. Assignment: MWSS shall not assign its rights and obligations under this Agreement without the prior written consent of the PSP.
- 6. Termination:
- a. Grounds for Termination
 - b. Procedure
 - c. Effects of Termination (including buy-out by MWSS of the interest of the PSP on the Project)
- Disputes Settlement: Mediation and arbitration

ANNEX “D”

TERM SHEET OF THE WATERSHED PROTECTION AND CO-MANAGEMENT AGREEMENT (the “Agreement”)

PARTIES	<ul style="list-style-type: none">- Private Sector Participant (PSP), MWSS, Armed Forces of the Philippines (“AFP”), Department of Environment and Natural Resources, and such other appropriate government entities/agencies
TYPE OF CONTRACT	<ul style="list-style-type: none">- Agreement among the parties for the protection and co-management of the Laiban watershed
FUNDING	<ul style="list-style-type: none">- The PSP shall allocate yearly funding for the services of the total Special Citizen Armed Forces Geographical Unit Active Auxiliary (“SCAA”) volunteers, which shall include: (a) monthly allowance, (b) uniforms, and (c) hospitalization/medical care for injuries, including death, where such injury or death arises while performing forest protection duties.
OBLIGATIONS OF PSP AND MWSS	<ul style="list-style-type: none">- Assist in the selection and confidential investigation of SCAA volunteers formed for this purpose- Allocate yearly funding for the services of the total SCAA volunteers, which shall include: (a) monthly allowance, (b) uniforms, and (c) hospitalization/medical care for injuries, including death, where such injury or death arises while performing forest protection duties.- Conduct regular patrol in the Laiban watershed in coordination with the SCAA Controlling Unit- Confiscate illegally collected forest products and file appropriate cases in court against watershed violators- Prepare and submit reports and furnish copies thereof to all concerned government agencies for their information and appropriate action

OBLIGATIONS OF AFP

- Undertake security services, maintain peace and order, and guard or protect the forest and watershed areas, including the installations, facilities and properties of the PSP and MWSS thereat and other places and facilities as may hereafter be agreed upon by the parties, from theft, pilferage, robbery, arson, illegal logging, timber, poaching, and other unlawful acts to be committed by any individual or threat groups.
- Supervise the posting duties and provide Military Cadres as security supervisors.
- Exercise direct control and supervision over the SCAA volunteers in accordance with the rules and regulations promulgated by the AFP and/or its authorized representatives.
- Reserve the right to recommend termination of SCAA services when security situation warrants or in the event of violation of the provisions of the SCAA Revised Guidelines and this Agreement.
- Submit a monthly report to the PSP and MWSS, which shall contain, among others, security status and assessment, apprehensions and confiscations, number of SCAA deployed for the month and other accomplishment data.
- Indemnify and hold the PSP and MWSS harmless from any and all damages, costs, liabilities and expenses sustained arising from any act or omission of any of the SCAA volunteers while in the performance of his duties under the Agreement (including, but not limited to damage to property, injury and death to any person).

OTHER PERTINENT PROVISIONS

- Any decrease and increase in the number of SCAA volunteers, as may be recommended by the AFP, shall be subject to the prior approval of the PSP and MWSS.
- In the event of imminent or actual

attacvolunteers, who will be under the AFP's operation control, to add to the existing over-all security setup pursuant to the AFP defense plan approved by the PSP and MWSS.

- The tenure of the appointment of the SCAA volunteers are on a yearly basis and any subsequent reappointment will be upon recommendation of the PSP and MWSS to the AFP. Any termination of the services of SCAA volunteers shall be in accordance with the Revised Guidelines on the SCAA. The PSP and MWSS may recommend to the AFP the imposition of disciplinary action or termination of services of erring SCAA volunteers.
- The services of the SCAA volunteers shall be limited to the implementation of the watershed protection and co-management program for the Laiban watershed, and in no case shall they be used as guide or bodyguards of officers, employees or guests of the PSP, MWSS or the AFP.
- No employer-employee relationship between the PSP and/or MWSS (on one side and the SCAA volunteers (on the other side).
- The allocation of funds by MWSS necessary for the implementation of this Agreement shall be subject to the approval of the appropriate authorities and all expenses defrayed shall likewise be subjected to existing rules and regulations of the Commission of Audit.
- The terms and conditions under the Revised Guidelines on the SCAA are binding upon the parties.
- Such other terms and conditions as may be agreed upon with such other appropriate government entities/agencies.