



**CONVENTION**

**RELATING TO THE CONCESSION FOR THE  
GENERATION AND PUBLIC SUPPLY OF  
ELECTRIC POWER**

**IN**

Port Vila

CONVENTION

RELATING TO THE CONCESSION FOR THE GENERATION AND PUBLIC  
SUPPLY OF ELECTRIC POWER IN PORT-VILA

BETWEEN :

The Government of VANUATU represented by HIS PRIME MINISTER AND THE MINISTER OF LAND, NATURAL RESOURCES AND ENERGY

Hereinafter referred to as "The GRANTOR"

on the one part,

AND :

UNELCO VANUATU, a limited liability company with a capital of 460 million Vatu having its registered office at Rue Winston Churchill, Port-Vila (Republic of VANUATU) hereby represented by its Chairman, Mr. BARAK SOPE, and by Mr. Marc SEYDOUX, Director, hereinafter referred to as "The CONCESSIONNAIRE".

on the other part,

IT HAS BEEN AGREED AS FOLLOWS :

SECTION 1 - PURPOSE AND TERM OF THE CONCESSION

1. Under the conditions set forth in this Convention and in the appended Specification: the GRANTOR shall concede to the CONCESSIONNAIRE the right to generate and supply electrical energy to the public for all purposes within the CITY of PORT-VILA.

The boundaries of the CITY of PORT-VILA which can be modified from time to time by the Government of VANUATU are defined in the following text :

- Joint decision n° 62 dated 11th June 1975

Furthermore, it has the rights to supply electricity within a 15 kilometre radius from the boundaries of the CITY of PORT-VILA.

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2. The CONCESSIONNAIRE shall fulfil the obligations arising from the exclusive right to generate electricity for all purposes for selling to government bodies, the public and other corporate bodies or private individuals during the term of the Concession within its limits. Therefore, the Concession shall confer upon the CONCESSIONNAIRE the exclusive right, within the said limits, to construct and to maintain on or under public thoroughfares and their easements, any facilities necessary for the public supply of electricity, including supports, conduits, lines and cables, in accordance with this Convention and the Specifications hereto and in compliance with current and future regulations.
3. The Concession will end on 31st December 2001.

#### SECTION 2 - POWER GENERATING PLANT

4. Pending further instructions, the power generating plant may be kept by the CONCESSIONNAIRE on the land rented to him from the Government of VANUATU at the rate of 1 Vatu per year which is located immediately behind the Post Office. The surface area of this piece of land is approximately 2,150 sq. m.

The CONCESSIONNAIRE shall prepare a plan to transfer the power generating plant to another site, when necessary, to avoid interruption of supply, and at least three years before the capacity of the power generating plant's present site for the installation of new generators is inadequate or when the Government shall request such a transfer in the public interest. This plan shall be submitted for the approval of the Government of VANUATU.

5. The new site shall be provided by the Government and rented to the CONCESSIONNAIRE at the rate of 1 Vatu per year.
6. The cost of transferring the power generating plant and erecting lines linking the new power generating plant to the existing network shall be financed by a loan from the Government or by funds borrowed by the latter. Yearly charges on such a loan shall be recovered by the CONCESSIONNAIRE in his rates. Increased rates thereby made necessary shall be submitted for the approval of the Government which may request all the elements of the total transfer cost supporting the requested increases.

#### SECTION 3 - SUBSTITUTION

7. The CONCESSIONNAIRE may sign leases for titles of land which may be required for erecting, at his own expense, facilities necessary for electricity supply.

8. All leases signed to operate the Concession shall contain a clause reserving the right of the GRANTOR to replace the CONCESSIONNAIRE upon forfeiture, purchase, or expiry of the Concession. Any leasehold land held at present as part of the Concession assets or later acquired shall be handed over to the GRANTOR at the end of the Concession.
9. Similar provisions shall be included in any future agreements for the purchase of energy.

SECTION 4 - CONCESSION FIXED ASSETS AND DEPRECIATION

10. Concession fixed assets, irrespective of the way they are financed, shall appear in the accounts of the CONCESSIONNAIRE at their revalued carrying amount.
11. Concession property which has been financed by the CONCESSIONNAIRE with funds procured or borrowed by him or accruing from undistributed profits from the Concession shall be subject to asset transfer depreciation calculated on the straight line basis over the number of years between the time such installations were commissioned and the end of the Concession.

The depreciation period, however shall not be less than 15 years for the following :

- . land, buildings and civil engineering works, the transport network and the part of the distribution network financed by the CONCESSIONNAIRE;

and not less than 8 years for:

- . the electrical and mechanical power plant equipment.

12. It is agreed that yearly allocations to the asset transfer fund and the value of the Concession fixed assets still to be depreciated shall be calculated at the end of each financial year in the following way:

In order to take currency depreciation into account, yearly asset transfer depreciation allocations shall be determined by applying the appropriate coefficient (equal to an nth, 1/8th or 1/15th) to the value of assets subject to transfer depreciation, revalued as indicated in subsection 13. below.

Such allocations shall be credited to the account known as the "Asset transfer fund".

13. Concession fixed assets subject to asset transfer depreciation shall be revalued by applying a correction coefficient reflecting the international monetary depreciation having occurred between the year of first use of an installation and the financial year under consideration.

Such correction coefficient shall be based on the French Metropolitan wholesale price index for industrial products (all taxes included). The aggregate of such revalued investments shall appear in the company's balance sheet under the heading "Revalued Concession fixed assets financed by the Concessionnaire".

14. Annual allocations calculated on historical cost in Vatu and credited by the CONCESSIONNAIRE to the "Asset transfer fund" shall be revalued in the same way, by applying the appropriate revaluation coefficient based on the French Metropolitan wholesale price index for industrial products (all taxes included) to the actual allocation of a given year. The aggregate of such revalued asset transfer depreciation allocations shall appear in the CONCESSIONNAIRE's balance sheet under the heading "Revalued asset transfer fund".

15. At the end of each financial year, the value of Concession fixed assets financed by the CONCESSIONNAIRE and not fully depreciated shall be equal to the value of such revalued assets calculated as indicated in subsection 13. above, less the "Revalued asset transfer fund" calculated as indicated in subsection 14. above.

16. The difference at the end of each financial year between the "Revalued asset transfer fund" and the aggregate of the "Asset transfer fund" calculated as indicated in subsection 12. hereinbefore shall not constitute an expense to be debited to the trading account and shall not be taken into account when reviewing the prices.

17. At the end of the same financial year, the increase in the current value of Concession fixed assets financed by the CONCESSIONNAIRE not fully depreciated by way of asset transfer depreciation calculated as indicated in subsection 15. hereinbefore, after been entered in the profit and loss account of the financial year, shall be credited to the "Special revaluation reserve" which appears on the balance sheet under liabilities.

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18. The cost of the above-mentioned fixed assets which have been withdrawn from operation shall be revalued in the year they were written off by applying the above-mentioned revaluation index, and deducted from the "Revalued Concession fixed assets financed by the Concessionnaire" account. The same shall apply to asset transfer depreciation allocations made for the withdrawn fixed asset, which shall be deducted from the "Revalued asset transfer fund".

After the proceeds from the sale have been deducted, the remaining undepreciated revalued amount shall be debited to the replacement fund.

SECTION 5 - REPLACEMENT

19. During the term of the Concession, the CONCESSIONNAIRE will have to make yearly provisions for replacing Concession fixed assets irrespective of whether or not such assets were financed by the CONCESSIONNAIRE. These provisions shall be calculated at the hereinunder specified rates on the historical cost of the assets concerned.

PART B

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20. Replacement provisions will be calculated by the application of the following rates on the straight line basis:

	<u>ANNUAL RATE</u>
. Buildings	3 1/3%
. Distribution network	4%
. Production equipment	4%

However, only the investments which will have to be renewed before the end of the Concession i.e. those assets which will be fully provided for by the end of the Concession will be subject to allocations to the replacement fund. Depending on the nature of the assets, some will have been fully provided for at the end of 30 years and other after 25 years.

If, during the Concession, new installations not pertaining to the above categories are commissioned, other more suitable rates could be applied with prior approval of the GRANTOR or his representative.

21. Yearly provisions shall be credited to an account referred to as "Replacement fund".

22. The replacement expenses and possibly maintenance expenses as defined in section 9 made during the term of the Concession will be charged against the "Replacement fund".

23. For replacement expenses only, the following is applicable:

a) At the time of replacement, if the installation to be replaced is subject to asset transfer depreciation, the whole operation shall be treated as a new investment subject to asset transfer depreciation and a replacement provision as indicated in subsection 11. and 20. hereinbefore.

The provisions of subsection 18. hereinbefore shall apply to the asset withdrawn:

. no replacement provision nor asset transfer depreciation shall be allocated for such asset withdrawn from the fixed assets.

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- b) If the installation to be replaced is not subject to asset transfer depreciation (financed by third parties contributions), the replacement cost shall be borne by the replacement fund.

The new installation shall be debited to the "Fixed assets financed by third parties" account at its replacement value and the same amount credited to the "Customers' contributions" account.

Such assets shall be subject to allocations to the replacement fund as indicated in subsection 20. hereinbefore.

The revalued value of the replaced installation, in the year of its replacement, will be shown on the assets side of the balance sheet and deducted from Concession fixed assets financed by third parties. On the liabilities side, a similar amount shall be deducted by subtracting from "Customer's contributions" a sum equal to the original value of the withdrawn asset and from the "Revaluation reserve for fixed assets financed with third parties contribution" a sum equal to the revaluation increment.

- c) If the asset to be replaced has been financed partly by the CONCESSIONNAIRE and partly by third parties, a distinction shall be made between these two parties which shall be treated respectively as indicated in paragraphs a) and b).

For each type of installation the total amount of deductions for replacement made from the replacement fund shall appear under an information heading published in the annual statistics.

24. For maintenance expenses only, as defined in section 9, none of the provisions of subsection 23. is applicable.

These expenses shall not be subject to any asset transfer depreciation nor to any replacement provision, irrespective of the original financing of the corresponding assets.

25. At the end of the Concession, whether such Concession ends by purchase, expiry or for any other reason whatsoever, a sum equal to the net amount of the replacement fund will be paid to the Government of VANUATU.

SECTION 6 - INVESTMENT SUPPORT

26. An investment support fund is set up from the date of signature of the present Convention. For the duration of the Concession, the CONCESSIONNAIRE shall credit yearly this fund with the amount defined in subsection 28. hereinbelow. This amount will be considered as an expense for the corresponding year.

27. This yearly expense shall be credited to an account known as "Investment support fund".

28. The original amount allocated by the CONCESSIONNAIRE to such fund shall be 4,000,000 Vatu, based on the price "P" applicable at the date of signature of the present Convention and the related Specifications, which is 22 Vatu. The amount of this allocation shall be indexed to the price "P" applicable on the 31 December of the year when such allocation shall be made.

29. It is expressly stipulated that the amount shown to the credit of the "Investment support fund" is at all times owned by the GRANTOR.

The GRANTOR, after consultation with the CONCESSIONNAIRE, and after being made aware of his investment programme, can, from time to time or yearly, approve any withdrawal from the investment support fund proposed by the CONCESSIONNAIRE or order such withdrawal which would seem justified in developing the distribution of electricity or to decrease the rates within the Concession area.

Notwithstanding the above, in cases provided for in section 9 hereinbelow, the CONCESSIONNAIRE shall inform the GRANTOR by registered letter of the amounts charged to the fund.

The withdrawals ordered or approved by the GRANTOR shall be debited to such fund.

30. The extension works financed by this fund shall not be subject to asset transfer depreciation. They shall be subject to replacement provision only insofar as they can be included in assets as defined in subsection 20. hereinbefore.

31. At the end of the Concession, whether such Concession ends by purchase, expiry or for any other reason whatsoever, a sum equal to the net amount of the investment support fund will be paid to the Government of VANUATU.

SECTION 7 - PRIVATE ASSETS

32. Private fixed assets shall be entered in the CONCESSIONNAIRE's balance sheet at their revalued carrying amount.

The historical cost of private fixed assets shall be revalued by applying a correction coefficient based on the French Metropolitan wholesale price index for industrial products (all taxes included).

PART B

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Each year, the CONCESSIONNAIRE shall provide for ordinary depreciation allocations by applying the following straight-line rates to the revalued amount of private fixed assets:

. tools and workshop equipment	10%
. fittings	10%
. office and staff accommodation furniture and equipment	10%
. measuring apparatus (meters)	10%
. vehicles	20%

For any type of fixed asset which could not be included in the above categories and which is subsequently brought into use, an appropriate depreciation rate shall be determined in agreement with the GRANTOR or or its representative.

33. The difference arising from the first revaluation of the original cost of the Company's private assets as well as the difference arising from the successive revaluations shall be credited to an account referred to as "Private fixed assets revaluation reserve".

PART B

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34. The total credit of the "Accumulated ordinary depreciation" account shall be revalued every year by applying the annual variations of the French Metropolitan wholesale price index for industrial products (all taxes included).

The difference between the amount of ordinary depreciation revalued as indicated above and the aggregate of the provisions made shall not constitute an expense to be debited to the trading account and shall not be taken into account in the calculation of the rates, but shall be accounted for, through the profit and loss account as a charge against the "Private fixed assets revaluation reserve".

35. The revalued cost of private fixed assets that have been withdrawn by replacement shall be deducted from the Company's fixed assets accounts, as well as revalued depreciation corresponding to these assets.

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After deduction of the proceeds from sale, the residual difference between the revalued cost of the fixed assets withdrawn and ordinary revalued depreciation shall be transferred to the profit and loss account of the year such fixed assets were withdrawn.

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SECTION 8 - COMMON PROVISIONS CONCERNING FIXED ASSETS AND DEPRECIATION

36. All calculations of revaluation of private or Concession fixed assets, whether or not financed with the contribution of third parties, as well as calculations of revaluation of depreciation allocations (except for allocations to the replacement fund made according to original cost) and of the revalued value of the asset transfer fund and ordinary depreciation shall be calculated with an index common to all these operations, namely the French Metropolitan wholesale price index for industrial products (all taxes included), base 100 in 1962, published by Institut National de la Statistique et des Etudes Economiques (French National Institute of Statistic and Economic Studies) or with any other local index agreed on by both parties.
37. The index applicable to transactions carried out during a given year shall be the index of the month of September of the considered year.
38. If this index were to be altered or ceased to be published the parties should seek an agreement on the choice of a new index.
39. During the course of the Concession, if the application of the terms of the present agreement concerning revaluations appears to depart from economic reality, each party may request an expert appraisal on these revaluations by applying the procedure indicated in section 17. hereinbelow.

The conclusions of the expert appraisal shall be applied in the subsequent accounts but shall not affect the previous accounts.

40. At the end of each financial year, depreciation as described hereinbefore (allocations to the asset transfer fund, replacement fund and ordinary depreciation of private fixed assets) shall be accounted for normally even if the trading account would end up thereby with a deficit.

However, in such an event, such depreciation allocations shall be deferred in the following order:

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1. allocations to the replacement fund,
  2. ordinary depreciation of private fixed assets,
  3. asset transfer depreciation.

Partially or totally deferred allocations will cause the opening of suspense accounts, which shall be settled by priority drawings from subsequent gross trading profits, in proportion to the amounts of such profits.

No suspense account shall produce interest.

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If necessary, measures shall be taken to write-off these accounts within a 12 months period. In this case, consideration will also be given to restoring the CONCESSIONNAIRE's income in the subsequent financial years, but compensation for the past losses will not be mandatory.

SECTION 9 - MAINTENANCE AND MAJOR REPAIRS

41. All expenses by the CONCESSIONNAIRE for maintenance of Concession and private property shall be considered as operating expenses of the year and not be debited to the replacement fund.
42. All repair expenses following force majeure events such as floods, earthquakes, volcanic eruptions, etc... as well as all major and exceptional maintenance repairs are debited to the replacement fund. Should this account have a nil balance, such expenses would then be considered as operating expenses of the corresponding year.
- PART B*  
\* 43. Parts of renewable assets that cannot be identified separately are not to be classified as replacements and only whole elements may be withdrawn by way of replacement from the fixed assets account which shall then record the cost of the replacement elements. A list of renewable elements will have to be drawn up in agreement between the CONCESSIONNAIRE and the GRANTOR.

SECTION 10 - TRANSFER OF THE OPERATION UPON EXPIRY OF THE CONCESSION

44. On the date set for the expiry of the Concession, the Government of VANUATU, subject to a three year's notice, may take over the rights and obligations of the CONCESSIONNAIRE and take possession of all the land and facilities necessary for the production and public distribution of energy.

Should the Government exercise such right, the Concession fixed assets including land, power generating plants, sub-stations, transforming and switching stations, mechanical and electrical installations, conduits and service loops being part of the Concession shall be handed over free of charge and in a good state of repair.

For the above installations, compensation shall be paid to the CONCESSIONNAIRE only for the part of the cost of these installations that will not have been fully depreciated under the conditions indicated in subsection 59.

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*FE* 45. This amount shall be paid to the CONCESSIONNAIRE within six months of the expiry of the Concession.
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46. As far as private fixed assets and stocks are concerned, the GRANTOR reserves the right to take them over as a whole or to the extent that he shall see fit, but without being under any obligation to do so. The value of the items shall be fixed amicably or according to expert appraisal and paid to the CONCESSIONNAIRE within six months of the take-over.

SECTION 11 - PURCHASE OF THE CONCESSION

47. At the end of an eight years period starting from the date of signature of the present Convention, the GRANTOR will have the possibility to purchase the entire operation subject to giving a two years' notice.
48. Should the GRANTOR exercise such right, the Concession fixed assets including land, power plants, sub-stations, transforming and switching stations, mechanical and electrical installations, conduits and service loops being part of the Concession shall be handed over free of charge and in a good state of repair.

For the above installations, compensation shall be paid to the CONCESSIONNAIRE only for the part of the cost of the installations that will not have been fully depreciated under the conditions indicated in subsection 59.

The CONCESSIONNAIRE shall also receive annual payments for loss of tenure.

49. As compensation for loss of tenure, the CONCESSIONNAIRE shall also receive for each remaining year of the Concession, as defined hereinbefore and with a maximum of seven years, a sum equivalent to the average profit of the seven trading years of business preceding the year of purchase, except for the two least profitable years.

Such sum shall be payable to the CONCESSIONNAIRE in the form of annuities.

50. Each year's profit shall be calculated by deducting from the total electricity sales revenue all expenses actually incurred for running the operation including head office expenses, allocations for revalued ordinary depreciation, for the replacement fund, interest charges on loans, and asset transfer depreciation, but excluding capital repayments of loans.

The net profit shall be the one fixed by the Auditors of the CONCESSIONNAIRE.

51. The amount of the annual payment shall not, under any circumstances whatsoever, be lower than the net profit of the last of the five years taken into consideration.

The Government of VANUATU may, if it so wishes, pay all the annuities owing to the CONCESSIONNAIRE in one settlement; in this case, annuities which are not yet due shall be subject to a discount at the compound interest rate of 8 1/2% per annum.

52. The amount required to complete asset transfer depreciation will have to be paid to the CONCESSIONNAIRE within six months of the transfer of the operation to the Government of VANUATU.

53. The amount of each of the annual payments for loss of profits shall be paid to the CONCESSIONNAIRE in two instalments, which shall be due on 15th January and on 15th July of each year after the handing over of the operation to the Government of VANUATU.

All sums owed by either party for whatever reason which are not paid at the due time shall automatically bear compound interest at the rate of 8 1/2% per annum as from their due dates.

54. The GRANTOR will have to take over the CONCESSIONNAIRE's commitments as far as they relate to the normal running of the operation and will have to purchase the supplies of stock and stock in transit as well as private fixed assets of the CONCESSIONNAIRE.

*PART A*  
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SECTION 12 - FORFEITURE

55. Should the CONCESSIONNAIRE not meet his commitments towards the GRANTOR and especially if public safety were to be jeopardised by him and he refused to take the necessary steps to remedy such a situation, or if operations were partially or wholly suspended, the GRANTOR shall give notice to him fixing a reasonable time limit either to ensure the future safety of operations or to resume normal services.

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56. If at the end of the given time limit in respect of the events indicated hereinabove, the CONCESSIONNAIRE has not complied with the requirements of the notice, the GRANTOR may declare the forfeiture of the Concession.

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57. Forfeiture shall not be applicable if the CONCESSIONNAIRE has been unable to fulfil his obligations due to duly ascertained force majeure.

In the case of forfeiture, the Government of VANUATU shall take possession of the Concession fixed assets, including land, plants, substations, transforming and switching stations, electrical and mechanical installations, conduits and service loops being part of the Concession.

58. The CONCESSIONNAIRE shall receive as total compensation, a sum equivalent to the remaining depreciation of the installations, in accordance with the provisions of subsection 59. below, subject to a 20% penalty deduction.
59. The remaining depreciation of the installations of the Concession mentioned in subsection 44., 48. and 58. equals the difference between the revalued value of the Concession fixed assets subject to asset transfer depreciation and the amount of the revalued asset transfer fund described in section 4.
60. This sum shall be paid within a six months' period following the declaration of forfeiture.
61. The GRANTOR may take over the private fixed assets and supplies on the same conditions as indicated in subsection 46.

SECTION 13 - MISCELLANEOUS EXPENSES

- PART B*  
\* 62. The price calculation is based on existing expense categories. Should the CONCESSIONNAIRE be liable for new expenses, he would then have the right to request a revision of the prices in the way provided for in subsection 26. of the Specifications.

The GRANTOR may similarly request a revision of the prices should some expenses be reduced or cancelled, this only includes expenses which have lead the CONCESSIONNAIRE to request a revision of the prices.

SECTION 14 - CURRENCY OF ACCOUNT

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*W.*  
63. All the accounting records of the Company shall be held in Vatu. All purchases and compensations owed to the CONCESSIONNAIRE for whatever reason shall also be calculated in Vatu. The corresponding sums shall be paid in Vatu or any other currency unit transferable at the official rate of exchange at the date of settlement.

SECTION 15 - CESSION OR MODIFICATION OF THE CONCESSION

64. Neither total or partial cession of the Concession or change of CONCESSIONNAIRE may occur without the approval of the GRANTOR, under penalty of forfeiture.
65. It is agreed, however, that this approval shall not be unreasonably withheld if the new CONCESSIONNAIRE offers all sufficient technical and financial guarantees, insofar as the service to be provided is concerned.

SECTION 16 - VERIFICATION

66. The CONCESSIONNAIRE shall prepare the accounts of the Concession in accordance with the provisions of the law of VANUATU and of the present document.
67. Such accounts shall be subject to verification by the Company's Statutory Auditors at the CONCESSIONNAIRE's expense.
68. The Statutory Auditors shall also verify that the following provisions have been respected:

Convention

- a) Sections 10 and 12 concerning the amounts due to the CONCESSIONNAIRE upon expiry of the Concession or in case of forfeiture.
- b) Under the same conditions, the expenses of the possible relocation of the power generating plant shall also be subject to the Auditors' verification.

Specifications

- a) Section 7 concerning charges and repayments for extension.
- b) Section 16 concerning the conventional expenses of the CONCESSIONNAIRE's parent and associated companies.

SECTION 17 - JURISDICTION

\* 69. Should any disputes arise between the GRANTOR and the CONCESSIONNAIRE as to the interpretation or the application of the present Convention (or concerning the attached Specifications), it shall be submitted to two arbitrators, one appointed by the GRANTOR and the other by the CONCESSIONNAIRE.

70. If the two arbitrators cannot reach agreement, they shall appoint a third arbitrator who shall have a casting vote.

If the two arbitrators cannot reach agreement as to the choice of a third arbitrator, the President of the International Chamber of Commerce shall be requested to appoint him.

Part B

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71. Moreover, it is hereby specified that the parties shall comply with the following time limits :

- a) If the parties have not been able to reach agreement within three months following notice of litigation given by either party under the provisions of this section, they shall proceed to the nomination of their arbitrators ;
- b) The arbitrators shall be appointed within one month ;
- c) the arbitrators shall announce their decisions within six months of the days of their appointment ;
- d) If the two arbitrators cannot reach agreement they shall nominate a third arbitrator within one month of the date notice was given of their inability to reach agreement, which shall also be given during the six-month period prescribed hereinbefore ;
- e) The third arbitrator shall announce his decision within two months of of his appointment.

72. The arbitrators' decision shall be final.

73. Each party shall pay the fees and expenses of its own expert, as well as half of all other expert appraisals and arbitration expenses.

#### SECTION 18 - REGISTRATION

74. If, any reason, registration fees should become payable, at any time during the term of the present agreement, such fees will not be payable by the CONCESSIONNAIRE.

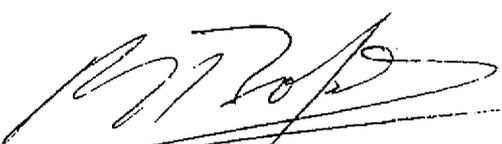
#### SECTION 19 - TEXT OF REFERENCE

75. This Convention shall be translated into English, but should a dispute arise, only the French text shall apply as evidence.

SIGNED AT PORT-VILA, THIS 15 August 1986

THE CONCESSIONNAIRE

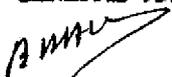
- . The CHAIRMAN of the BOARD OF DIRECTORS  
of UNELCO-VANUATU

  
MR. BARAK SOPE

- . One Administrator,

  
MR. Marc SEYDOUX

- . The GENERAL MANAGER,

  
. MR. Yves BRAULT

THE GRANTOR

- . The PRIME MINISTER

  
SIR Walter LINI

- . The MINISTER of LANDS,  
NATURAL RESOURCES AND ENERGY

  
D. KALPOKAS

PROT O C O L E

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Le Gouvernement du VANUATU et UNELCO VANUATU sont convenus de se rencontrer pour examiner et mettre au point dans un délai d'un mois à compter du 15 AOUT 1986 les modifications qui pourraient être apportées aux articles 5 et 7 du Cahier des Charges.

Les dites modifications feront l'objet d'un avenant au Cahier des Charges.

Tant que cet avenant n'aura pas été signé, le Cahier des Charges tel qu'il a été signé en date du 15 AOUT 1986, s'appliquera.

Le Président de UNELCO VANUATU,



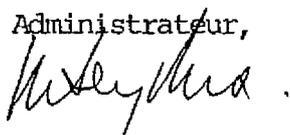
M. BARAK SOPE

Le Premier Ministre,



Sir WALTER LINI

Un Administrateur,



M. MARC SEYDOUX

Le Ministre des Terres,  
des Ressources Naturelles  
et de l'Energie



M. D. KALPOKAS

Le Directeur Général,



M. Yves BRAULT



SPECIFICATIONS

RELATING TO THE CONCESSION FOR THE GENERATION AND  
PUBLIC SUPPLY OF ELECTRIC POWER IN PORT VILA

BETWEEN :

The Government of VANUATU represented by HIS PRIME MINISTER AND THE MINISTER OF LAND, NATURAL RESOURCES AND ENERGY hereinafter referred to as "The GRANTOR"

on the one part,

AND :

UNELCO VANUATU, a limited liability company with a capital of 460 Million Vatu, having its registered office at Rue Winston Churchill, Port Vila (Republic of VANUATU) hereby represented by its Chairman, Mr. BARAK SOPE, and by MR. MARC SEYDOUX, Director, hereinafter referred to as "The CONCESSIONNAIRE"

on the other part,

IT IS HEREBY AGREED AS FOLLOWS :

SECTION 1 - GRANTED SERVICE

1. The CONCESSIONNAIRE undertakes to establish and/or maintains at his expense and in accordance with the conditions of the present Specifications and those of the Concession Convention to which it is appended :
  - . A power generating plant and a distribution network for the purposes of supplying electrical energy for lighting and all other purposes in the CITY of PORT VILA and the Concession area as indicated in section 1 of the Concession Convention.

SECTION 2 - VOLTAGE AND FREQUENCY

2. Electrical energy shall be distributed at low voltage in the form of three-phase alternating 50 period current at a voltage rating of 220/380 Volts.

The high voltage distribution rating is set at 5,500 Volts.

3. Tolerance shall be plus or minus 2% for frequency and plus or minus 7% for voltage.

*PART A*  
SECTION 3 - CONCESSION FIXED ASSETS

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4. Concession fixed assets include land and buildings belonging to the concession, the power generating plant, high and low-voltage distribution networks, public supply transforming stations, as well as external high and low voltage service loops, being already in existence or subsequently to be installed in agreement between the CONCESSIONNAIRE and the GRANTOR.

- Power Generating Plant -

5. The power generating plant may be kept on a piece of land rented from the GRANTOR at the rate of 1 Vatu per annum and which is situated immediately behind the Post Office. The surface area of this piece of land is approximately 2,150 sq. m.

The above is agreed subject to the provisions of the Convention Agreement concerning the transfer of the power generating plant.

6. The power generating plant shall be equipped so as to ensure an electricity supply at all times, for all purposes and to all consumers connected to the network even when the most powerful generator is out of action. Compliance with this provision does not absolve the CONCESSIONNAIRE from his obligations towards meeting the penalties for default in supply.

- PART A*  
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7. The CONCESSIONNAIRE shall keep an up to date design drawing of the the power generating plant including subsidiary installations and provide to the competent authority of VANUATU a copy of such drawing upon each modification. } Part also

- Distribution network -

- WL*  
*RE* *PART A*  
\*  
8. Conduits shall be either underground or supported by posts with concrete foundations. The diameter of the conductors shall be such as to enable normal use of electricity throughout the town and the Concession area. All work shall be carried out in accordance with normal industry standards and with current rules and regulations.

- W*  
*W*  
9. The CONCESSIONNAIRE shall have two separate plans for both the high voltage and low voltage networks and shall keep such plans up to date } Part C also  
A copy of these up-to-date plans shall be provided at least once a year to the competent authority of VANUATU.

10. Only the CONCESSIONNAIRE shall have the right to use the Concession facilities. He may, subject if necessary to authorisation, use such facilities to supply electrical energy outside the boundaries of the Concession or for any subsidiary service, as long as these additional services and supply are not detrimental to the good operations of the Concession services as prescribed in the present Specifications.
11. Only the CONCESSIONNAIRE shall have the right to construct and maintain within the Concession area, either above or under public thoroughfares and their rights-of-way, the facilities necessary for supplying electrical energy.

#### SECTION 4 - GENERAL CONDITIONS OF SERVICE

- PART A \**
12. The CONCESSIONNAIRE shall deliver electricity on a permanent basis. He may nevertheless interrupt service for maintenance, connection works and for safety purposes for any works being undertaken in the vicinity of installations. He shall endeavour to reduce such interruptions to a minimum and to make them, inasmuch as it is possible within the requirements of his operations, at periods and times which are likely to cause the least inconvenience to customers.

The dates and times of these interruptions shall be indicated at least three days in advance, to the GRANTOR and, by public notice, to the customers concerned.

In circumstances requiring immediate intervention, the CONCESSIONNAIRE shall be authorised to take the necessary emergency measures, without having to notify the competent authority of VANUATU prior to such emergency intervention.

#### SECTION 5 - RATES CALCULATION

13. With the exception of those domestic customers as indicated hereinbelow, the current shall be sold to users on the basis of a two component rate made up of a fixed charge and a charge proportionate to the monthly quantity of energy used.

*WL*

The base value of the proportionate charge (P) is set at 22 Vatu (twenty two) per KWH.

- GA*
14. Depending on the type of agreement signed, the fixed charge is equal to a certain number of units of the proportionate charge per KVA contracted for.

- BP*
15. For lighting and domestic uses, the chosen power rating "expressed in terms of amperes", shall be one of the usual power ratings of switch-board circuit-breakers.
- M.A.S.*

16. The CONCESSIONNAIRE may recommend to the customer the power rating to be contracted for as equivalent to a certain fraction of the combined power of the various appliances (for example: lamps, refrigerators, ...) constituting his total installed power. The method to be used in calculating the recommended power rating shall be established and, eventually modified if necessary, in agreement with the competent authority in such a manner that it shall remain fair both to the consumers and to the CONCESSIONNAIRE.

It is nevertheless hereby stipulated that no power rating contracted for shall be lower than either 5 amperes or 1.10 KVA.

As long as this condition is respected, the customers may choose the power rating they contract for from the standard values of the circuit-breakers after consulting the CONCESSIONNAIRE.

17. The prices at which the CONCESSIONNAIRE is authorized to sell electricity cannot exceed the following base ceilings for the three supply categories indicated hereinbelow and referred to as "rate groups" (A,B,C).

A - LOW VOLTAGE

Agreement - Other purposes

Fixed Charge	19 P
KWH Price	1 P

Agreement-Holders of business licence for trade and small industry

Fixed Charge	20 P
KWH Price	0,90 P

B. PUBLIC LIGHTING

KWH Price	0,80 P
-----------	--------

C. HIGH VOLTAGE

Fixed charge	25 P
KWH Price	0,67 P

18. Domestic agreements

Domestic customers who do not use more than 120 KWHs a month shall be charged at a special rate consisting of three brackets and not including either a fixed charge or a meter hire fee.

*SK*

*WL.*  
*MAS*

The price of electricity used by the consumer shall be set as follows :

First bracket from 0 to 60 KWHS	0,65 P
Second bracket from 61 to 120 KWHS	1 P
Over 121 KWHS	1,70 P

Should the consumption exceed 120 KWHS during three consecutive months, the "Domestic agreement" shall automatically become an "other purposes agreement" as of the following month.

19. Monthly fixed charge.

Each consumer who holds a low voltage "Other Purposes" and "Holders of business licence for trade and small industry" or "high voltage" agreement, shall pay a fixed monthly charge covering the fixed expenses, the hire of the meter and the cost of maintaining the connection according to the conditions prescribed in subsection 17.

"Domestic" and "Public Lighting" agreements have no fixed charge.

- Power Factor -

20. The above prices are calculated on the basis of an average monthly power factor equal or superior to 80 %.

Should the average monthly power factor drop below 80 %, the base price of energy shall be increased by 1 % per hundredth of the average power factor below 80 %.

Adjustment of Price P to the variations of the economic conditions

Po Reference price of the KWH applicable at the 1st October 1986  
that is to say Po = 22 Vatu.

21. The price P above is valid in the economic conditions defined by the following parameters.

Go Average purchase price of a litre of gasoil delivered at VILA WHARF value revision of price at the 1st October 1986 (say : 2 last invoices preceeding That is to say Go = 22,14 the 1st July 1986).

Io Amount of the licence of the rates and excise revenues supported by the Concessionnaire during the year 1986.  
That is to say Io = (0,000,000)

Mo Average of the daily salary collected by a single labourer not with lodging and board at PORT.VILA at BALLANDE and BURNS PHILIP Establishments, during the second term 1986.  
That is to say Mo = 804

Ko Index of the prices of the intermediate goods in french currency published by INSEE (National Institute of Statistics and Economic Studies) publication of the second term 1986.  
That is to say Ko = 152,1 - temporary index

Vo Sales in KWH to the consumers from the 1st July 1985 to 30th June 1986.  
that is to say Vo = 16 949 774 KWHS.

22. The prices used by the CONCESSIONNAIRE shall be readjusted on the 1st January, 1st April, 1st July and 1st October of every year, according to the value of the above parameters calculated as follows :

.../...

G Average value of a litre of gas-oil delivered at the Wharf warehouse at PORT.VILA according to the last two invoices for the deliveries made to the CONCESSIONNAIRE during the first three months of the six months period preceeding the adjustment. This value includes the custom duties "ad valorem" and the stamp duty calculated on the C.I.F value, if applicable.

M Average daily wage received by an unmarried labourer working in PORT.VILA for BALLANDE VANUATU and BURNS PHILP, who does not receive board and lodging, in the first three months of the six months period preceeding the adjustment.

If a salary scale or a collective workers agreement becomes applicable in VANUATU, the GRANTOR and the CONCESSIONNAIRE shall meet in order to modify the definition of M to comply to the new text. Bringing this new scale into account shall be introduced in such a way that it shall neither result in a loss nor a profit to the CONCESSIONNAIRE.

I Amount of all taxes and levies payable by the CONCESSIONNAIRE.

K Average of the index of the wholesale prices of industrial products (all taxes included) in french francs as published by the INSEE (French National Institute for Statistic and Economic Studies) in the first three months of the six months period preceeding the adjustment.

As this last index is a french index, should the parity with the Vatu - 0,069 french franc equals 1 vatu. (Chancellery rate of the french Embassy at VANUATU at the 30 June 1986, value revizion of the 1st October 1986) would changed to C, it is agreed that the corresponding index shall be multiplied by  $\frac{1}{C}$

Sales expressed in terms of KWH to consumers in the first twelve months of the fifteen months period preceeding the date of the adjustment.

PART B V

\* 23. It is agreed that the scale of charges applicable to a period in which the economic situation is characterized by the values of the indexes defined above, shall be determined by applying the following formula :

$$P = P_0 \left[ 0,09 + 0,35 \frac{G}{G_0} + (0,03 \frac{I}{I_0} + 0,33 \frac{M}{M_0} + 0,20 \frac{K}{K_0}) (0,50 + 0,50 \frac{V_0}{V}) \right]$$

Should some of the above indexes cease to be published, the CONCESSIONNAIRE and the GRANTOR shall meet in order to define indexes to replace time.

With the same understanding, should a cost of living or salary index be published regularly, the parties shall meet in order to use such index to replace the index M defined hereinabove.

The application of this formula to the initial economic situation leads to a low-voltage KWH sales price of :

P = P<sub>0</sub> = 22 Vatu (as of OCTOBER 1ST 1986).  
Aunt-

WL.  
[Handwritten signature]

24. The sales prices of energy shall be rounded to the nearest hundredth in all calculation.

25. Invoices for electricity, other fees and extensions of connections shall be rounded up to the nearest Vatu in the case of fractions of Vatu equal to or above 50/100 and rounded down to the nearest Vatu for all fractions of Vatu below 50/100.

*PART B*

- Revision of the base price and of the adjustment formula -

\* 26. The base price P, the bracket range and corresponding rates, the factors, the basic indexes and the structure of the three monthly adjustment formula may be revised upon request of either the GRANTOR or the CONCESSIONNAIRE in the following circumstances:

- . If more than five years have elapsed since the present Specifications came into force or following the last revision,
- . If the price P varies by more than 25% either upwards or downwards,
- . If a price revision appears necessary in order to ensure normal contributions to the asset transfer depreciation fund, the normal depreciation account and to the replacement fund and to restore the balance of the trading account.

27. The new rates and new charges, when they have been set, whether following an agreement between the parties or arbitration in compliance with section 16 of the Concession Convention, shall be applied to consumers as of the first billing following the agreement or arbitration.

SECTION 6 - OBLIGATION TO SUPPLY

28. The CONCESSIONNAIRE shall, in compliance with the Specifications and within the boundaries of the Concession, supply electricity to all persons requesting it, on the condition that these applicants guarantee to adhere to their contract for five years at high voltage and for one year at low voltage (these periods shall be reduced for temporary installations).

\* 29. Electricity delivery shall be ensured within one month of receipt of the application by the CONCESSIONNAIRE, this period being extended by a reasonable period of time necessary for carrying out the connection, the extension and possible reinforcement of the network. Such periods of time shall be specified in the quotation submitted to the applicant. If current cannot be supplied and if the plan and quotation cannot be submitted to the applicant within a month of the application, the CONCESSIONNAIRE shall in the said month notify the applicant of the date on which he shall be able to supply these documents and the date by which he shall be able to ensure the supply.

Should a dispute arise as to what is considered to be a reasonable period of time, the competent authority of VANUATU shall be called upon to make a decision.

*W.L.*  
*[Signature]*

30. The CONCESSIONNAIRE shall not have to supply customers at power ratings exceeding:

- . 6.6 KVA in mono-phase low voltage,
- . 25 KVA in three-phase low voltage,
- . 630 KVA in high voltage.

Customers requesting higher power ratings may be supplied in three-phase low voltage or in 5,500 Volts high voltage.

The conditions of supply for customers requesting power ratings exceeding 25 KVA in low voltage or 630 KVA in high voltage shall be determined by mutual agreement.

#### SECTION 7 - EXTENSION OF THE NETWORK

31. Extension shall mean any distribution facility, line or equipment to be constructed to supply areas of the Concession not yet supplied with electricity. High voltage and low voltage supplies shall be considered separately. The CONCESSIONNAIRE may at his expense construct any extensions which he believes will benefit the development of the network.

PART B

\* 32. The CONCESSIONNAIRE shall construct all extension facilities of which a part of the initial cost, determined as prescribed hereinafter, shall be paid for by one or by several customers collectively and if necessary by the GRANTOR who would substitute the consumers, this participation being limited to facilities absolutely necessary to the supply of the consumers concerned. Facilities constructed in such a way shall form part of the Concession.

PART A

\* 33. The plans and quotations of the network extensions shall be prepared by the CONCESSIONNAIRE within a maximum period of one month of the application. The extension shall be put into service within a reasonable period of time which shall be indicated in the quotation. Disputes as to what is a reasonable period of time shall be submitted to the competent authority of VANUATU who shall make a decision.

#### Network extension for delivery to high voltage customers

34. As far as installations supplied at high voltage are concerned, the CONCESSIONNAIRE may demand repayment from all new consumers of 90% of the initial cost of the new lines operated at the distribution voltage, which must be constructed to link each delivery point to the existing network. For a five years period from their first use, the CONCESSIONNAIRE may also demand repayment from the consumer of 90% of the reinforcement expenses made necessary by such increases in power rating on these new lines.

WL  
M...  
YB

35. Supply shall in principle be made through a single conduit and to a single delivery point for each building supplied, the delivery point being situated within the consumer's premises.
36. A new customer can only be connected to such an extension on the condition that he reimburses the initial customers for part of the establishment costs that they have met; such part shall be proportionate to the power used and to the proportion of the facilities used to convey such power, reduced by one eighth for each year that has elapsed since the extension was first put into use. The same would apply in the event of an increase in power rating by one of the initial customers or if the CONCESSIONNAIRE were to use the extension for his own general needs.
37. The technical and financial conditions resulting from the above provisions shall be in each case accurately expressed in a special agreement between the CONCESSIONNAIRE and the customer.
38. All facilities constructed by virtue of this section and located upstream of the section insulator of the customer's delivery point shall form part of the Concession network.

B. - Network extension for delivery to low voltage customers

39. Applicants shall participate to the initial costs of new network facilities, lines and stations, according to the average length of low and high voltage distribution lines per customer (L) to be supplied.

40. Applicants' contributions shall be set as follows:

Length (L) per customer	Contribution in percentage
Within 300 metres	70%
Over 300 metres	90%

41. If the customer requests it, such contribution may be paid in five equal annual instalments of 25% each of the contribution payable.

This yearly payment shall be decreased by an amount equivalent to 10% of the electricity revenue collected during the year in question, from customers supplied by the extension.

*WL*  
*MAS*

42. A new connection to such an extension may only be made if the applicant agrees:
- either to repay a part of the initial costs borne by preceding customers, proportionate to his power rating and the proportion of the facilities used by him; these costs, however shall be reduced by one fifth of their value for each year that has elapsed since the extension was set up;
  - or, if the extension is being paid for by annual instalments, to pay to the CONCESSIONNAIRE a portion of the annual instalments still owed by the first customers, in proportion to his power rating and the proportion of the facilities used by him.
43. When a low voltage supply requires the construction of one or several transforming stations, the owner or the building contractors shall provide the CONCESSIONNAIRE with the necessary land or premises; such premises shall be enclosed, covered and suited to their purpose and shall enable the CONCESSIONNAIRE's agents permanent access; the access shall be sufficient to enable at all times the passing through of equipment.
- The CONCESSIONNAIRE, however, shall bear all the costs of equipping such premises if the owner of such premises agrees that the transforming station shall also supply buildings belonging to other owners.
44. The reinforcement at the request of one or more customers of a low voltage network extension facility which has been in use for less than three years shall be payable by the requesting customers in proportion to their initial contribution.
45. In case of disagreement as to the application of the provisions of this section, the dispute shall be settled as prescribed in section 20.
46. When allocating the initial costs of the extensions among the customers, the CONCESSIONNAIRE shall estimate the number of customers to be connected and their power ratings. The expenses shall be divided among these customers in proportion to their foreseeable power ratings and the proportion of the facilities used to supply them.
47. For each extension, the CONCESSIONNAIRE shall record the costs and the number of customers connected. He shall update such figures at least once every two years after the completion of the extension and repay every two years the sums owed to certain customers.

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M.A.S.

SECTION 8 - REINFORCEMENT

48. Subject to the provisions prescribed in subsection 34. and 44. herein-above, all facilities necessary to ensure, within the prescribed limits, the supply to high and low voltage customers who are already connected shall be carried out at the CONCESSIONNAIRE's expense. The cost of such installations is said to include transport and distribution lines, transformers, circuit-breakers and other accessories and the corresponding civil engineering works. In this respect, high and low voltage supplies shall be considered separately.
49. However, if a customer or group of customers request a power rating from a different rate group in the scale of charges than previously applied, any reinforcement of the corresponding network shall be considered as an extension and treated accordingly.

SECTION 9 - SERVICE LOOPS

50. The following shall be considered as service loops:

In high voltage: overhead lines, cables and accessories situated between the junction at the distribution network and the switching station and including such station at the customer's delivery terminal;

In low voltage: all conduits or parts of conduits used to convey the network current up to and including the meter board and limited:

1. downstream, by the terminal of the circuit-breaker when the circuit-breaker is downstream of the meter or by the general switching box in the case of a collective service loop;
  2. upstream, by the nearest overhead support of the network or by the nearest junction or connection system in the case of underground service loop.
51. Nevertheless, it is hereby stipulated that, not including the part of the service loop possibly situated within the properties being supplied, any outer connection using a public thoroughfare for more than 30 metres shall be considered as an extension and be treated as stipulated in section 7.
52. Outer service loops shall be installed under the responsibility of the CONCESSIONNAIRE. The corresponding expenses which shall be reimbursed to the CONCESSIONNAIRE are defined in section 10, subsection 56.

Half of the amount of such a sum shall be payable before works start and the balance before the service loop is put into use.

*WL*  
*M.F.S.*

53. Outer service loops shall form part of the Concession. They shall be renewed by the CONCESSIONNAIRE at his own expense.

54. In service loops, redistribution conduits and all junctions shall be installed and maintained by and at the expense of the owners or users.

*Part A*  
\* SECTION 10 - COMMON PROVISIONS FOR EXTENSION WORKS OR SERVICE LOOPS

55. Any eventual disputes concerning the nature of works i.e. whether it is an extension or a service loop, which may cause a claim, shall be submitted to the appraisal of the competent authority of VANUATU. } *Part c Also*

*Part A*  
\* 56. The initial establishment expenses stipulated in section 7 and 9 shall be considered as including all direct expenses including outside supplies and services, labour, transport expenses, site supervision, as well as a supplement of 15% of such expenses for local and registered office expenses, studies, plans and quotations, depreciation, other provisions and profit.

A scale of standard charges may be prepared in agreement between the GRANTOR and the CONCESSIONNAIRE, particularly for the most common works.

*Part A*  
\* SECTION 11 - METERS

57. Apparatus for measuring and controlling energy and power shall be of one of those approved by the competent authority of VANUATU and supplied by the CONCESSIONNAIRE.

A - Low voltage

58. Low voltage meters shall be installed in a dry place safe from all corrosive substances and emanations, to facilitate their easy reading, maintenance and checking. Their location shall be decided by the CONCESSIONNAIRE in agreement with the customer, in accordance with the rules applicable in VANUATU.

B - High voltage

59. Measuring and controlling apparatus especially include :

- . active energy meter and reactive energy meter,
- . indicators or recorders of power and accessories (clocks or relays, measuring transformers, etc...).

The reactive energy meters must be equipped with a device such that the reactive energy, which would be supplied to the network by the customer's installation, cannot be recorded as a deduction from the reactive energy consumed.

The CONCESSIONNAIRE may require that the measuring and controlling apparatus be supplied by the customer; in such case they shall be installed by the CONCESSIONNAIRE's agents, adjusted, sealed and periodically checked by them in the presence of the customer or its representatives.

The installation, sealing and maintenance of the measuring equipment shall be determined by the power supply agreements, under the control of the competent authority of VANUATU.

For power ratings under or equal to 630 KVA, the metering can be in low voltage, but only if the losses occurring during the connection period of the transformers, the duration of which will if necessary be measured, are measured or estimated at a flat figure.

60. Special apparatus for controlling or limiting the supplied power according to the power rating contracted for, as well as maintenance of such apparatus shall be at the expense of the customer.
61. The CONCESSIONNAIRE shall have the right to seal meters and the special apparatus described hereinabove, as well as the metering unit of high voltage customers.

Circuit-breakers, which limit the power absorbed by the customer to the power rating contracted for, shall be sealed by the CONCESSIONNAIRE who reserves the right to check periodically the seals and setting of such apparatus.

62. Customers shall not interfere with such seals. Should the seal of a meter be found to be broken or should the measuring and controlling apparatus be manipulated, supplies of electricity shall be immediately suspended, without prejudice to any other compensations and interests that may be payable to the CONCESSIONNAIRE by decision of the Court.

#### SECTION 12 - METER INSPECTION

63. The CONCESSIONNAIRE may inspect the meters as often as he deems fit, but this inspection shall not be charged to the customer.

The CONCESSIONNAIRE's qualified agents shall have access at any time to the measuring and controlling apparatus.

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MS

PART A

\* 64. Consumers may at all times request the checking of their measuring and controlling apparatus, either by the CONCESSIONNAIRE, or by an expert chosen by mutual agreement, or, if no agreement can be reached, designated by the competent authority of VANUATU. Inspection costs shall be payable by the customers only if the meter is shown to be exact within the limit of the regulatory tolerance.

In any case, an inaccuracy shall only be taken into consideration if it exceeds the limit of the regulatory tolerance.

PART A

SECTION 13 - CUSTOMER'S AGREEMENT

\* 65. The agreement for the supply of electrical energy shall be established in the format of a subscription form in conformity with the model which will be agreed upon by the CONCESSIONNAIRE and the GRANTOR.

} Part C  
Also

The provisions stated in that model may be amended only by a special convention between the CONCESSIONNAIRE and the customer.

66. Upon request of the CONCESSIONNAIRE and on signature of the agreement, the customer shall pay an advance on consumption which shall not exceed:

- . Domestic agreement : 70 P
- . Agreement - Low or high voltage -  
(per KVA of power rating contracted for) : 150 P

Such deposit shall not earn interest and shall be refundable upon expiry of the agreement.

67. Any redistribution of electrical energy by a customer to one or several third parties for any reason whatsoever is forbidden, except with the CONCESSIONNAIRE's prior written consent.

SECTION 14 - CONTROL OF INNER INSTALLATIONS

68. Electricity shall be supplied to customers only if their own installations have been established in accordance with current regulations and standards to:

- . avoid disruptions of the operation of the CONCESSIONNAIRE's networks and to guarantee the safety of his staff,
- . prevent illegal or fraudulent use of electrical energy.

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The customer will not operate any kind of autonomous means of producing electrical energy which might run in parallel with the network, unless it complies with the technical conditions arising from the relevant regulation, and only after having notified the CONCESSIONNAIRE of the above by registered letter with acknowledgement of receipt one month in advance.

69. In view of the objectives defined hereinabove, the CONCESSIONNAIRE shall be authorised to check consumers inner installations before they are put into use and at any time thereafter. Should the installation be found to be defective or should the customer not allow the inspection, the CONCESSIONNAIRE may refuse to supply or continue to supply electrical energy.

70. Under no circumstances shall the CONCESSIONNAIRE be found liable for the defectiveness of inner installations which he shall not have established.

*PART A*  
\* 71. In the event of disagreement as to the measures to be taken to remove any cause of disruption in the general distribution operations, the dispute shall be submitted to the competent authority of VANUATU.

#### SECTION 15 - INSURANCE

72. The CONCESSIONNAIRE shall take out insurance against third party risks arising from his operations.

#### *PART A* \* SECTION 16 - REGISTERED OFFICE COSTS (SERVICES, STUDIES AND OTHER ASSIGNMENTS)

73. The CONCESSIONNAIRE may charge to the activities of its PORT VILA operation, the services rendered on his behalf by the registered office of the Group of Companies to which the CONCESSIONNAIRE belongs, as well as the services rendered by affiliated or sister companies, the sums corresponding to the cost of services, studies and other assignments which will be carried out according to agreements of which the GRANTOR may request certified copies and corresponding invoices.

#### *PART A* \* SECTION 17 - ACCOUNTS AND STATISTICAL STATEMENTS

74. Every time a revision must be carried out, under the provisions of section 5, and upon expiry of the Concession, the CONCESSIONNAIRE shall provide the department of the Ministry in charge of Energy with the certified accounts for each of the years which have elapsed since the last revision and at least for the past five years. Separate certified sets of accounts shall be drawn up for each of the CONCESSIONNAIRE's operations in VANUATU. They shall include:

*Part C*  
*Also*

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*MS* *15*

PART A \*

- a trading account,
- an analytical operating account for electricity generation and distribution,
- an analytical operation account for extension and connection works,
- a company fixed assets statement,
- a company balance sheet,
- a statement of source and application of funds.

PART C  
Also

PART A \*

75. The accounts shall indicate revenue, expenditure and the balance with such details as the services of the above-mentioned Ministry shall request. A model of a balance sheet is attached in appendix 1. Such statements shall be provided within three months following the GRANTOR or CONCESSIONNAIRE's request for revision.

PART C  
Also

PART A \*

76. The CONCESSIONNAIRE shall provide the Government of VANUATU, during the first quarter of each year, with a statistical statement of the previous year's operations. Such report shall be drawn up in the form requested by the services of the competent Ministry and may be published wholly or in part. It shall include a statement of the sums owed by the CONCESSIONNAIRE to customers in repayment of their contribution to extensions.

PART C  
Also

The CONCESSIONNAIRE shall also provide all statistical information necessary to the application of the Convention and the Specifications, and especially of the section 5 hereinabove.

SECTION 18 - PENALTIES

77. Should services be interrupted without justification or should the statistics and accounts prescribed in section 17 become overdue, the CONCESSIONNAIRE shall be liable to the following penalties:

- a) unjustified interruption:
  - throughout the network: a fine equal to 500 P per hour of interruption,
  - at one transformer : a fine equal to 50 P per transformer per hour of interruption.
- b) overdue accounts and statistical statements (section 17) : a fine equal to 10 P per day overdue.

WL.

- c) Where the competent authority of VANUATU has requested the CONCESSIONNAIRE to remedy a default not resulting of force majeure and the CONCESSIONNAIRE has not complied with such request within an acceptable period of time, he may be liable for penalties not exceeding 15 P for every 5 % variation between the voltage or frequency rating exceeding voltage and frequency contractual tolerances.

SECTION 19 - CONCESSIONNAIRE'S AGENTS

78. Such employees and guards as the CONCESSIONNAIRE shall have had sworn in for supervising and policing the distribution network and its related facilities shall wear a distinctive insignia and shall carry a title stating their position.

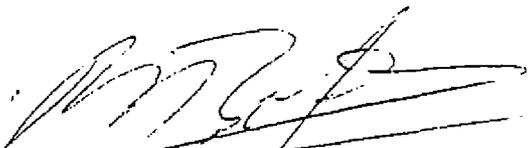
SECTION 20 - DISPUTES WITH THE CUSTOMERS

79. Disputes arising between the CONCESSIONNAIRE and the customers as to the execution and interpretation of the present Specifications shall be submitted to the services of the Ministry in charge of Energy and except for those stipulated in section 6,7,8,9,10,11 and 13 in which the Minister shall be competent to make a decision, shall, in the event of persistent disagreement, be judged by the PORT-VILA Supreme Court.

SIGNED AT PORT-VILA, THIS August 15- 1970

THE CONCESSIONNAIRE

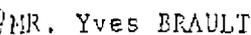
- . The CHAIRMAN of the BOARD OF DIRECTORS  
of UNELCO-VANUATU

  
MR. BARAK-SOFE

- . One Administrator

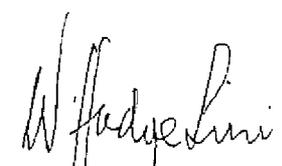
  
MR. Marc SEYDOUX

- . The GENERAL MANAGER

  
MR. Yves BRAULT

THE GRANTOR

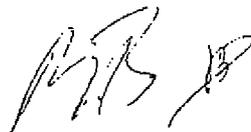
- . The PRIME MINISTER

  
SIR WALTER LINI

- . The MINISTER of LANDS,  
NATURAL RESOURCES AND ENERGY

  
MR. Donald KALIPOKAS

  
WL



APPENDIX 1

MODEL OF CONTRACTUAL BALANCE SHEET  
(Mentioned in subsection 74 of the specifications)

ASSETS

I - Fixed Assets

1) Concession fixed assets financed by the Concessionaire

	At Cost	Asset transfer depreciation	At Valuation	Revalued Asset transfer depreciation	Net Carrying amount
Land					
Buildings					
General Equipment					
Network					
Establishment expenses					
Net value of the concession fixed assets financed by the Concessionaire					
TOTAL 1	a	b	A	B	C A-B

2) Concession fixed assets financed by third parties

Net work facilities					
TOTAL 2	d		D		D

3) Private fixed assets

	At Cost	Ordinary Depreciation	At Valuation	Revalued Ordinary Depreciation	Net Carrying Amount
Land					
Land acquisition expenses					
Meters					
Tools and equipment					
Office furniture and equipment					
Fixtures					
Vehicles					
Private fixed assets					
TOTAL 3	e	f	E	F	G E-F

TOTAL I: Operation fixed assets: 1)+2)+3) H G-D+G

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*[Handwritten signature]*

II - OTHER ASSETS

Construction work in progress  
Depreciation suspense  
Contributions of third parties receivable  
Deposits

---

Total II. Other Assets

---

1

III - CURRENT ASSETS

Inventories  
Stock in transit  
Work in progress  
Trade debtors  
• Prepayments  
• Other debtors  
Cash at bank and in hand

---

Total III. Current Assets

---

3

TOTAL ASSETS

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*[Handwritten initials and signatures]*

MODEL OF CONTRACTUAL BALANCE SHEET

SHARE CAPITAL AND LIABILITIES

I - Share capital and reserves

- . Issued and paid up share capital
- . Special revaluation reserve of concession fixed assets
- . Private fixed assets revaluation reserve
- . Self insurance reserve
- . Retained profits

Total Share Capital and Reserves

---

II - Replacement fund

- . Accumulated amount

Less:

- . Withdrawals

Net Funds Available

---

III - Investment support fund

- . Accumulated amount

Less:

- . Withdrawals

Net Funds Available

---

IV - Third parties contributions

- . Non refundable contributions
- . Revaluation reserve for fixed assets financed with third parties contributions
- . Downpayments on works
- . Refundable contributions

Total

---

*A* TOTAL SHARE CAPITAL, RESERVES AND CONTRIBUTIONS

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V - Liabilities

- . Borrowings (non-current)
- . Advances on consumption
- . Trade creditors
- . Borrowings (current)
- . Sundry creditors and accruals

TOTAL LIABILITIES

TOTAL SHARE CAPITAL, RESERVES AND LIABILITIES

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.....

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AMENDMENT N° 1

TO THE SPECIFICATIONS DATED 15th AUGUST 1986  
RELATING TO THE CONCESSION FOR THE GENERATION AND  
PUBLIC SUPPLY OF ELECTRIC POWER IN PORT-VILA

BETWEEN:

The Government of VANUATU, represented by his PRIME MINISTER AND THE  
MINISTER OF ENERGY,

hereinafter referred to as "the Grantor",

on the one part,

AND:

UNELCO VANUATU Limited, a limited liability company with a capital of  
300 million Vatu having its registered office at rue Winston Churchill,  
Port-Vila (Republic of VANUATU), hereby represented by its Chairman and  
Managing Director, Mr Marc Seydoux,

hereinafter referred to as "the Concessionnaire",

on the other part,

WHEREAS:

- The "COMPAGNIE ELECTRIQUE DE SANTO LTD", subsidiary of UNELCO-VANUATU Ltd, operates the generation and public supply of electric power under the conditions of a concession contract ruled by the same convention and specifications as those of the Port-Vila concession.
- The electric power rates shall be calculated with the same method for all the consumers of both Port-Vila and Santo concessions.
- This standardized rates calculation modifies the contractual base value of the proportionate charge (P) paid by the Port-Vila consumers.

IT HAS BEEN AGREED AS FOLLOWS:

SECTION 1

The contractual base value of the proportionate charge, defined in subsections 13, 20 and 23 of the specifications relating to the concession for the generation and public supply of electric power in Port-Vila, dated 15th August 1986, is modified as follows:

$$P = P_0 = 22.22 \text{ Vatu}$$

This new base value of the proportionate charge (P) shall be included in the rates calculation applicable to the power consumptions metered during the month following the signature of the present amendment.

Signed at Port-Vila, this

The Concessionnaire

The Chairman and Managing  
Director of UNELCO-VANUATU Ltd



Mr Marc Seydoux

The Grantor

The Prime Minister

Father Walter Lini

The Minister of Energy

Mr Harold QUALAO



AMENDMENT N° 2  
TO THE SPECIFICATIONS DATED 15TH AUGUST 1986  
RELATING TO THE CONCESSION FOR THE GENERATION AND  
PUBLIC SUPPLY OF ELECTRIC POWER IN PORT-VILA

BETWEEN:

The GOVERNMENT OF VANUATU, represented by its PRIME MINISTER AND THE MINISTER OF ENERGY,

hereinafter referred to as "the Grantor",

on the one part,

AND:

UNELCO VANUATU Limited, a limited liability company with a capital of 300 million Vatu having its registered office at rue Winston Churchill, Port-Vila (Republic of VANUATU), hereby represented by Mr Patrice MÜLLER,

hereinafter referred to as "the Concessionnaire",

on the other part,

WHEREAS:

- The "COMPAGNIE ELECTRIQUE DE SANTO LTD", subsidiary of UNELCO-VANUATU Ltd, has transferred to UNELCO-VANUATU Ltd the concession contract for the generation and public supply of electric power in LUGANVILLE (Deed of assignment dated 30th April 1990 between COMPAGNIE ELECTRIQUE DE SANTO LTD, UNELCO VANUATU LTD, and the Government of VANUATU),
- a standardized rates calculation shall be applied to all the consumers of the PORT-VILA and LUGANVILLE concessions (Section 5, paragraph 13 of the Specifications dated 23rd January 1990 relating to the concession for the generation and public supply of electric power in LUGANVILLE).
- this standardization of rates based on equalization entails an adjustment of some parameters included in the adjustment formula of price P.
- Section 6 of the Specifications dated 23rd January 1990 relating to the concession for the generation and public supply of electric power in LUGANVILLE provides that :
  - ▶ on the one hand, the raw materials, especially fuel and lubricants, are exempt from customs duties, taxes and any other rates in the same conditions as those of the PORT-VILA concession.

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- ▶ on the other hand, in the case where these materials or products were subjected to such fees, duties or taxes the Concessionnaire would be enabled to ask a revision of the rates.

IT WAS AGREED UPON AS FOLLOWS:

SECTION 1 :

Paragraphs 21 and 22 of Section 5 of the Specifications relating to the concession for the generation and public supply of electric power in PORT-VILA dated 15th August 1986 are altered as follows :

- 21. The price P above is valid in the economic conditions defined by the following parameters:

- Go Average purchase price of a litre of gasoil delivered at Port-Vila wharf. Revision of price at the 1st August 1986 (say: 2 last invoices preceding the 1st July 1986).

that is to say

Go = 22,14

- Io Total of licences, rates and excise revenues borne by UNELCO-VANUATU in PORT-VILA and by the COMPAGNIE ELECTRIQUE DE SANTO in LUGANVILLE during the year 1986.

$$Io = I'o + I''o$$

I'o = 10.000.000 in PORT-VILA during the year 1986

I''o = 1.525.313 in LUGANVILLE during the year 1986

that is to say

Io = 11.525.313

- Mo Average daily salary earned by a labourer who is single and whose salary does not include accommodation and meals, working for BALLANDE and BURNS PHILP in Port-Vila, during the second term of 1986.

that is to say

Mo = 804

- Ko Index of the prices of semi-finished products in French Francs published by INSEE (French National Institute of Statistics and Economic Studies), publication of the second term of 1986.

that is to say

Ko = 149,7

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Vo Total of sales in kWh to the PORT-VILA and LUGANVILLE consumers from 1st July 1985 to 30th June 1986.

$$V_o = V'_{o} + V''_{o}$$

V'o = 16.949.774 kWh for PORT-VILA

V''o = 2.223.520 kWh for LUGANVILLE

that is to say

$$V_o = 19.173.294$$

22. The prices applied by the Concessionnaire shall be readjusted on the 1st January, 1st April, 1st July and 1st October of each year, account taken of the value of the same parameters fixed as follows:

G = average buying price of a litre of gasoil, balanced between PORT-VILA and LUGANVILLE.

$$G = \frac{G' \times L' + G'' \times L''}{L' + L''}$$

G' = average buying price of a litre of gasoil landed PORT-VILA wharf and established according to the last two delivery invoices issued to the Concessionnaire during the first three months of the six-month period prior to the readjustment date. This value includes, as the case may be, the "ad valorem" customs duties and the stamp duty applicable on the CIF value.

G'' = average buying price of a litre of gasoil landed LUGANVILLE wharf and established according to the last two delivery invoices issued to the Concessionnaire during the first three months of the six-month period prior to the readjustment date. This value includes, as the case may be, the "ad valorem" customs duties and the stamp duty applicable on the CIF value.

L' = number of litres of gasoil used by the PORT-VILA thermal power station(s) during the first three months of the six-month period prior to the readjustment date.

L'' = number of litres of gasoil used by the LUGANVILLE thermal power station(s) during the first three months of the six-month period prior to the readjustment date.

M = Average daily salary earned by a labourer who is single and whose salary does not include accommodation and meals, working for BURNS PHILP, IFIRA-WARF ET STEVEDORING in Port-Vila, during the first three months of the six-month period prior to the readjustment date.

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IFIRA-WARF ET STEVEDORING has replaced BALLANDE-VANUATU since the 1st of July 1988, this being due to the discontinuance of certain of its activities (UNELCO-VANUATU letter, ref. 32/88/U/DIR.YB/SF dated 04.07.88 addressed to the Minister of Energy).

If a salary scale or a collective labour agreement comes into effect in VANUATU, the Grantor and the Concessionnaire will meet in order to alter the definition of M while referring to this text.

The readjustment of the new index will be carried out in a way that it entails neither loss nor profit for the Concessionnaire.

- I = Total, for PORT-VILA and LUGANVILLE, of licences, taxes and excise revenues of any nature borne by the Concessionnaire.
- K = Index of prices of semi-finished products in French Francs published by INSEE (French National Institute of Statistics and Economic Studies) during the first term of the six-month period prior to the readjustment (UNELCO-VANUATU letter ref. 32/88/U dated 04.07.89 addressed to the Minister of Energy).

As this last index is a French index, if the parity of the Vatu amounting to Co = 0,069 French Francs for 1 Vatu (Chancellery rate of the French Embassy at Vanuatu on 30th June 1986, revision value of the 1st August 1986) was to be brought to C, latest value known at the time of the rates readjustment, it is understood that the corresponding index shall have to be multiplied by 0,069.

- C -

- V = Total, for PORT-VILA and LUGANVILLE, of sales to consumers expressed in kWh during the first 12 months of the fifteen-month period preceding the readjustment date.

## SECTION 2:

Provided that to this day, it has not proved possible to implement the administrative proceedings allowing the customs department to exempt the LUGANVILLE Concessionnaire from taxes such as defined in Section 6 of the Specifications dated 23rd January 1990 relating to the concession for the generation and public supply of electric power in LUGANVILLE,

and so that the Concessionnaire may recover the amount of his payments relating to the tax on gasoil levied on the LUGANVILLE Concessionnaire between the 1st of January 1990 and the enforcement date of the present amendment,

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the price P shall be increased by 1 %. This increase will no longer be in force in the term following that during which the returns it will have produced will cover the amount of the tax on gasoil levied in LUGANVILLE between the 1st of January 1990 and the enforcement date of the present amendment.

The excess of returns, which will be found between the amount of of returns owing at the increase of price P of 1 % and the amount of the tax of gasoil levied on the LUGANVILLE Concessionnaire between the 1st of January 1990 and the enforcement date of the present amendment, will be totally deposited in the investment support fund of the LUGANVILLE concession, defined in Section 6 of the convention relating to the concession for the generation and public supply of electric power in LUGANVILLE.

SECTION 3 :

The present provisions will come into force as from the 1st of July 1990.

Port-Vila,

The Concessionnaire  
UNELCO-VANUATU

Mr Patrice MÜLLER  
UNION ELECTRIQUE DU VANUATU  
PORT-VILA

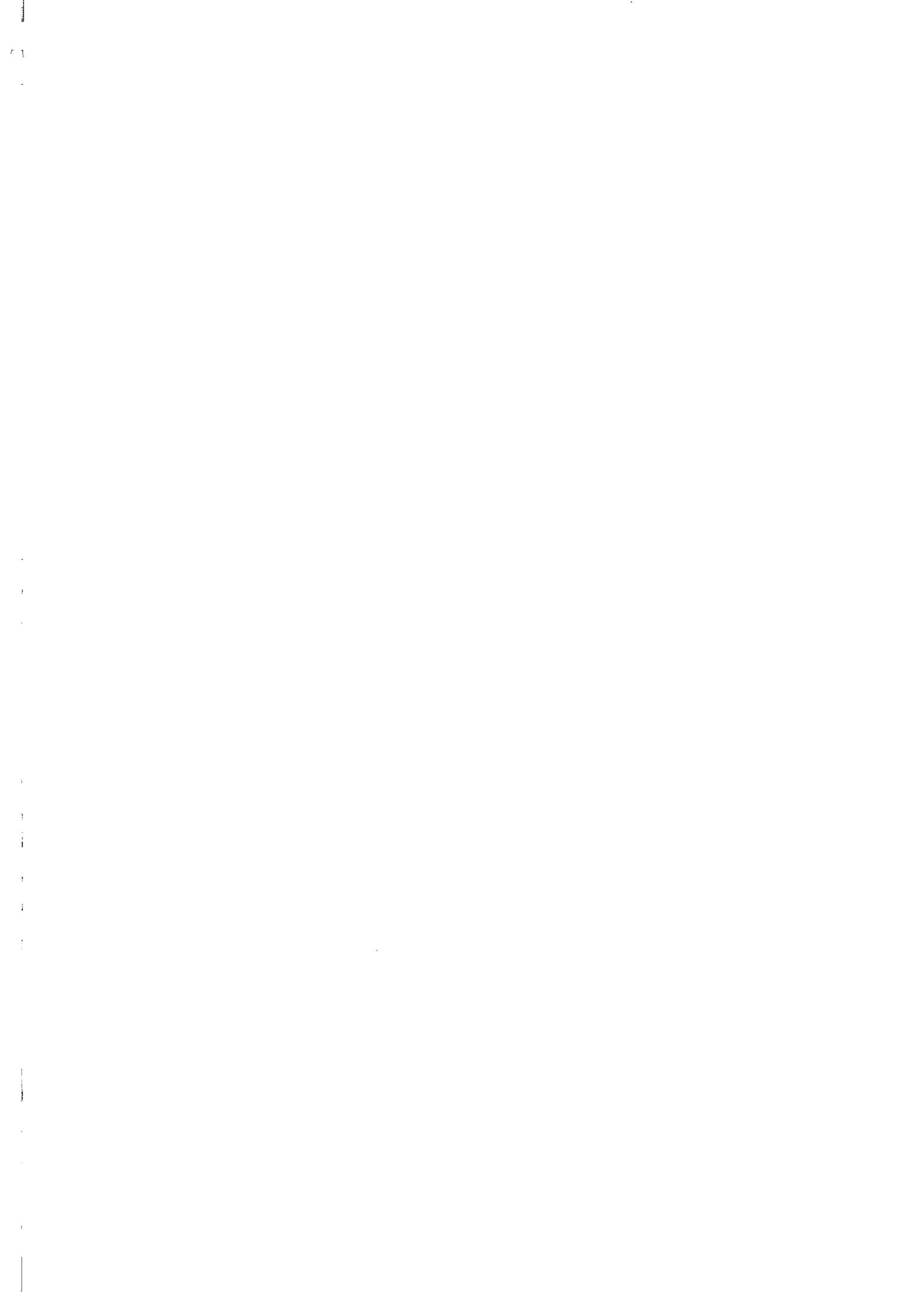
The Grantor  
The Prime Minister

Reverend Father Walter LINI

The Minister of Energy

Mr Harold QUALAO





**AGREEMENT VARYING CONCESSION**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF VANUATU**

**AND**

**THE HONOURABLE MINISTER OF LANDS,  
GEOLOGY, MINES, ENERGY  
AND RURAL WATER SUPPLY**

**AND**

**UNION ELECTRIQUE DU VANUATU LTD**

*— Port Vila —*

THIS AGREEMENT is made the 25<sup>th</sup> day of SEPTEMBER 1997

BETWEEN: THE GOVERNMENT OF THE REPUBLIC OF VANUATU  
(hereinafter called "the Government") of the  
first part

A N D: HONOURABLE SATO KILMAN, Minister of Lands,  
Geology, Mines, Energy and Rural Water Supply  
and also being the Minister responsible for Power  
for the purposes of the Electricity Supply Act  
(Cap 65) (hereinafter called "the Grantor") of  
the second part

A N D: UNION ELECTRIQUE DU VANUATU LIMITED a local  
Vanuatu Company having its registered office  
situate at C/o Second Floor, Law House, Kumul  
Highway, Port Vila, Efate in the Republic of  
Vanuatu (hereinafter called "the Concessionaire")  
of the third part

WHEREAS:

- A. The increased consumption of electricity in Port Vila has resulted in the need to increase the generating capacity by the construction of a new power station to be equipped in the first stage with two generators of 4MW capacity as a matter of urgency.
- B. As to the relocation of the existing power station and the interconnecting transmission line from the new power station to the existing network the Government has requested that it be financed and operated by the Concessionaire pursuant to the Concession.
- C. The Government has also requested the Concessionaire to finance the purchase of the necessary land for the construction and operation by the Concessionaire of the new power station.
- D. In view of the major investments required to be made for the new power station, allocations to the asset transfer Fund and to the renewal Fund cannot be made in accordance with sections 4 and 5 of the said Convention and consequently the price of electricity should be increased as is stipulated in section 5, paragraph 26 of the Specification Relating to the Concession for Port Vila dated the 15th day of August 1986.

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- E. The Government and the Grantor do not wish to increase tariffs.
- F. The Government, the Grantor and the Concessionaire have agreed that the Concession shall be varied and the financing and operation of the new power station shall be undertaken by the Concessionaire upon the terms and conditions hereinafter set out.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:-

SECTION 1: VARIATION OF THE CONCESSION

The terms and conditions of the Concession (being the documents described in the Schedule hereto) are hereby incorporated herein by express reference save to the extent that the same are hereby varied or modified and shall otherwise remain in full force and effect.

SECTION 2 : DURATION OF THE CONCESSION (varies Amendment No. 1 dated 23 January 1990 to the Convention)

The duration of the Concession is hereby extended by 20 years.

The Concession will therefore terminate on the 31st of December 2031

SECTION 3 - POWER STATIONS (varies Section 2 of the Convention)

Section 2 of the Concession headed "POWER GENERATING PLANT" is cancelled and replaced with the following :

"The Grantor authorises the Concessionaire to construct and operate as part of the Concession a new power station for the generation of electricity on allotments N°s 11/OJ22/007, 11/OJ22/008, 11/OJ22/009, 11/OJ22/010, 11/OK24/007, 11/OK24/008 and 11/OK24/009 of the industrial and commercial subdivision at TAGABE with a total area of 15317 m<sup>2</sup>.

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This land which will be financed by the Concessionaire for an amount of 30 Million Vatu in accordance with the offer of sale made by the company BLADINIÈRE ESTATES (URBAN) LIMITED dated the 3rd of June 1997, shall form an integral part of the Concession fixed assets.

The Government hereby agrees to ensure that all consents and authorisations required to be given by it and/or its Minister responsible for Lands and Natural Resources shall be granted forthwith in respect of the Transfer of the said Leases to the Concessionaire.

The 2886 m<sup>2</sup> of land where the existing power station is situated, which is provided by the Government (in accordance with the Concession set out in section 2 of the Convention subsequently modified by a decision of the Council of Ministers of the 30th of January 1992) shall remain at the disposal of the Concessionaire until the end of the Concession provided always that such use by the Concessionaire shall be solely for the purposes of the Concession and provided always further that any part or parts of the land no longer required shall be returned by the Concessionaire to the Government.

The Concessionaire shall at the end of the Concession retransfer the leasehold titles relating to the new power station and the existing power station back to the Government."

SECTION 4 - REVALUATION INDEX (varies Section 4 paragraphs 13 and 14 and Section 8 paragraph 36 of the Convention)

By application of section 8, paragraph 38 of the Convention, the common index to be used for the revaluation of private and concession assets and for the revaluation of allocations shall be replaced by the index "Matériel" (Equipment) published in the "Journal Officiel de Nouvelle-Calédonie" (New Caledonian Gazette) classified under cost of materials for construction reference "28 IM".

The base index shall be that of the 3rd quarter 1997 and for the duration of the Concession, the reference index used for calculating revaluations shall in any case never be inferior to the base value.

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SECTION 5 - REPLACEMENT AND MAJOR MAINTENANCE (replaces Sections 5 and 9 of the Convention)

This section supersedes sections 5 and 9 of the Convention and is as follows:

5.1 The Concessionaire shall make provisions for the replacement and major maintenance of concession assets during the term of the concession, whether or not they are financed by the Concessionaire.

The Concessionaire shall provide an annual report on the status of the replacement and major maintenance fund, in particular:

- \* the amount of the annual allocation;
- \* the amount of expenditure from the fund;
- \* the detail of the expenditure (renewal, major parts, major overhauls and so on);
- \* detail of assets withdrawn from operation during the current year. This applies to assets financed by the Concessionaire, the Grantor and/or third parties;
- \* the balance of the fund at the end of the financial year.

PART B

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5.2 Annual allocations shall be calculated as percentages of the revalued value of assets as tabled in the books of the Concessionaire at the end of each financial year. The percentages shall be as follows:

- Buildings (civil works)	1	%
- distribution and transmission network	1	%
- generating equipment (mechanical and electrical)	1.5	%

If in the future, new works which do not fall in any of the above categories should be constructed, these would be assigned appropriate percentages subject to the prior approval of the Grantor.

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PART B  
\* | These allocations shall be credited to the "Replacement and Major Maintenance Fund".

### 5.3 Major Maintenance

Expenses related to major maintenance of an exceptional nature to generating equipment (such as major overhauls, replacement of major parts, repairs, and other necessary maintenance of a similar nature) and expenses related to major maintenance and restoration of an exceptional nature of the electricity transmission and distribution network shall be debited from the "Replacement and Major Maintenance Fund".

### 5.4 Replacement

#### a) Assets financed by the Concessionaire

When a Concession fixed asset which has been financed by the Concessionaire is withdrawn from operation, the conditions of section 4, paragraph 18 of the Convention shall apply and allocations to fixed asset depreciation and replacement funds shall no longer be made for this particular asset which has been withdrawn from service.

The new asset shall be considered as a new investment and be subject to fixed asset depreciation and allocations to the replacement fund.

#### b) Assets financed by third parties

When a Concession fixed asset which has been financed by the Grantor and/or the Government and/or by a third party is withdrawn from operation, the revalued value of the asset for the year when it is withdrawn from operation shall be debited from the account in the books of the Concessionaire entitled "Revalued Concession fixed assets financed by third parties" and allocations to the replacement fund shall no longer be made for this particular asset.

The following procedure shall be followed for the replacement asset:

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- \* If the replacement asset is identical to the asset being replaced, the expense relative to the replacement, less any earnings from the sale of the asset being replaced, shall be debited from the " Replacement and Major Maintenance Fund"
- \* In the case of the capacity of the replaced asset being upgraded, an amount equivalent to the value of the identical item shall be debited from the " Replacement and Major Maintenance Fund " as stipulated above and the difference between this amount and the actual amount of the investment shall be considered as an asset financed by the Concessionaire which shall be subject to asset transfer depreciation and allocations to the "Replacement and Major Maintenance Fund"

c) Conditions common to assets financed by either the Concessionaire or third parties.

It is agreed that the conditions for replacement of assets as described above shall apply only to whole assets being withdrawn from operation which can be individually identified as an integral asset in the books of the Concessionaire.

The replacement of parts only of assets which cannot be individually identifiable shall be carried out in accordance with the procedure described in 5.3.

5.5 At the end of the Concession, the amount of the credit balance standing in the "Replacement and Major Maintenance Fund" shall be paid to the Government.

SECTION 6 - EVENTS OF FORCE MAJEURE (replaces Section 9 of the Convention)

Expenses relating to repairs of damages caused by events of force majeure (as hereinafter defined) which are not covered by insurances (such as damages to the aerial distribution network caused by cyclones) shall be at the expense of the Concessionaire.

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However, if the amount of such expenses for the current financial year should result in operating losses, the parties shall define the necessary remedial action by common accord to balance the books of the Concessionaire.

In the event that the parties could not agree by common accord, the resulting dispute shall be arbitrated by application of section 17 of the Convention.

#### SECTION 7 - SPECIFICATIONS

7.1 The parties hereto mutually agree that:-

On the one hand :

- \* As a result of the construction of a new power station for the generation of electricity in Port Vila, the apportionment of operating costs in the books of the Concessionaire are no longer coherent with the price adjustment formula for the price P.
- \* One of the 2 parameters for the calculation of the index "M" in the price adjustment formula is no longer available and the base index for the calculation of the index "K" is no longer representative of the variations in the price of industrial products.
- \* Over 5 years have elapsed since the last revision of tariffs and the price P has varied by more than 25% since the last revision.
- \* Section 5, paragraph 26 of the Specifications Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila, dated the 15th of August 1986, hereinafter referred to as the "Specifications" stipulates that in such a case, the tariffs and the price adjustment formula may be revised.

on the other hand :

- \* Uniform tariffs must be applied to all users in the Port Vila and Luganville Concessions.

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7.2 REFERENCE PRICE (varies Section 1 of Amendment No. 1 to the Specification of 23 January 1990)

The reference price per kWh, effective from the 1st of October 1997 is fixed at:

$$P_0 = 32,63 \text{ Vatu/kWh}$$

This price  $P_0$  is based on the economic and fiscal conditions in force as at the 15th of August 1997 and in particular on the payment by the Concessionaire of only an annual license fee of 4% (four percent) of turnover from the sales of electricity, the fixed charge not being included, and on the total exemption on any other tax which may be applied either directly or indirectly and on the total exemption of import duty and taxes on all goods, equipment and consumables to be used in the generation and public supply of electricity in Port Vila and Luganville, except for import duty and taxes on diesel oil purchased by the Concessionaire for the Luganville power station.

7.3 QUARTERLY PRICE ADJUSTMENT FORMULA (varies Article 5 paragraph 23 of the Specification of 1986 and Sections 1 and 2 of Amendment No.2 to the Specifications of 1 July 1990)

The base price  $P$  used for billing of electricity and fixed charges, advance on consumption, penalties applicable to the Concessionaire, and the reconnection fee after interruption to supply, shall be calculated each quarter on the 1st of January, the 1st of April, the 1st of July, and the 1st of October each year by application of the following formula:

$$P = P_0 \times [0,10 + 0,51 \times G/G_0 + 0,15 \times M/M_0 + 0,24 \times IM/IM_0 \times C/Co]$$

Where :

$G$  is the weighted average price of a litre of diesel fuel purchased in Port Vila and in Luganville, expressed in Vatu/litre and calculated as follows :

$$G = (G' \times L' + G'' \times L'') / (L' + L'')$$

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where :

- G' is the average price of a litre of diesel fuel delivered to the Port Vila power stations calculated by dividing the total amount of invoices received by UNELCO by the corresponding amount of diesel fuel delivered during the three months period preceding the date of adjustment of tariffs.
- L' is the number of litres of diesel fuel consumed by the Port Vila diesel power stations during the three month period preceding the date of adjustment of tariffs
- G'' is the average price of a litre of diesel fuel delivered to the Luganville diesel power stations calculated by dividing the total amount of invoices received by UNELCO by the corresponding amount of diesel fuel delivered during the three months period preceding the date of adjustment of tariffs.
- L'' is the number of litres of diesel fuel which would have been consumed by the Luganville diesel power station during the three month period preceding the date of adjustment of tariffs if the power generation had been entirely produced by diesel generators, calculated as follows :

$$L'' = (Csg/Mvg) \times (Eh + Ed)$$

where :

Csg and Mvg represent the specific consumption of diesel oil (in grams/kWh) and the density of diesel fuel (in grams/litre) respectively as defined in section 18 of the addendum dated the 03 March 1995 to the Concession Contract of Luganville.

Eh is the energy produced by the hydroelectric power station (in kWh) as defined in the same section 18, during the three month period preceding the date of adjustment of tariffs.

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Ed is the energy produced by the diesel power station in Luganville (in kWh) during the three month period preceding the date of adjustment of tariffs.

M is the average of the daily wage for a single male not receiving board or lodging in Port Vila at IFIRA WHARF and STEVEDORING, classified as an " inexperienced labourer ", and of the classification " PO2 " with the Public Service of the Vanuatu Government.

If a scale of wages or a collective agreement is concluded in VANUATU, or if a cost of living index should be published on a regular basis, the Concessionaire and the Grantor shall confer to modify the definition of M.

The application of the new index shall be such as to cause neither gain nor loss to the Concessionaire.

IM is the average of the indices " Matériel " (equipment) published by the " Journal Officiel " (New Caledonia Gazette) for the three month period preceding the date of adjustment of tariffs.

C is the currency exchange rate for the Pacific Franc (XPF or CFP) to Vatu (expressed in Vatu/XPF) published by the Banque d'Hawai in the column " selling rate " on the last working day before the date of adjustment of tariffs.

The base indices used to determine the reference price  $P_0$  in section 1 are as follows :

Go = 50.43 Vatu/litre  
 Mo = 1118 Vatu  
 IMo = 107.68 Vatu  
 Co = 1.0439 Vatu/XPF

In the event that certain indices should no longer be published or available, or no longer be representative of variations in economic conditions for which they are used, the Concessionaire and the Grantor shall define replacement indices by common accord.

In calculating the base price  $P$ , each variable shall be rounded off to the fourth decimal and the price  $P$  thus calculated shall be rounded off to 2 decimals.

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In all cases, the selling price of electricity based on the price P, shall be rounded off to the nearest one hundredth of a Vatu.

Invoices, shall be rounded off to the Vatu above for all parts of a Vatu equal or above 0.5 and to the Vatu below for all parts of a Vatu less than 0.5.

7.4 TARIFFS (varies Section 5 paragraph 17 of the Specification of 1986)

7.4.1 As from the 1st of October 1997, tariffs applicable to group C (High voltage supply) shall be as follows:

- \* Fixed charge 25 x P per kVA of subscribed power (or peak power reached in the event of subscribed power being exceeded)
- \* Energy 0.7 x P per kWh consumed

7.4.2 As from the 1st of October 1997 the tariffs applicable to group B (public lighting) shall be as follows :

- \* Fixed charge not applicable
- \* Energy 0.50 x P per kWh consumed.

7.4.3 Tariffs applicable to group A (low voltage supply) and domestic agreements remain unchanged.

7.5 REVISION OF THE REFERENCE PRICE AND PRICE ADJUSTMENT FORMULA (varies Section 5 paragraph 26 of the Specification of 1986)

The reference price  $P_0$ , the coefficients, the base indices and the quarterly price adjustment formula may be reviewed at the request of either the Grantor or the Concessionaire :

- \* If more than 5 years have elapsed since the date of effect of this amendment or since the it was last reviewed.

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- \* If the price P has increased or decreased by more than 25% compared to the reference price P<sub>0</sub> defined in section 7.1.
- \* If the fiscal conditions used for the establishment of the reference price in section 7.1 have been modified.
- \* If some new event should cause a major variation in the costs to the Concessionaire such that a review of tariffs appears necessary to pass on the variation in cost due to the new conditions of power generation and distribution in an equitable manner on to the price of electricity.

#### 7.6 TAXATION (New Condition)

Without limiting the generality of the foregoing, the parties hereto mutually agree that a review of tariffs shall be undertaken in the event of any increase or decrease of tax payable by the Concessionaire.

"Tax" means income tax (including capital gains tax), company tax, franking tax of any kind, pay-as-you-earn remittances, prescribed payments, withholding tax (including deductions pursuant to a royalty withholding obligation), fringe benefits tax, customs duty, sales tax, payroll tax, land tax, stamp duty, financial institutions duty, debits tax, municipal rates and all other taxes, charges, imposts, duties and levies.

### SECTION 8 - GENERAL CONDITIONS

#### 8.1 ARBITRATION/JURISDICTION (New Condition)

The Government, the Grantor and the Concessionaire acknowledge and agree that in the event of any dispute hereunder the provisions of Section 17 of the Convention of 1986 shall apply and the parties hereto submit to the jurisdiction of an arbitrator appointed in accordance with the said Section 17.

Notwithstanding anything elsewhere contained in this Agreement or the Concession, this Agreement shall be translated into French, but should a dispute arise only the English text of this Agreement and of the Concession shall apply as evidence.

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The Government confirms, represents and agrees with the Concessionaire that:-

- (a) its obligations hereunder are wholly commercial in nature;
- (b) it waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any arbitration, action or proceeding, the defense of sovereign immunity, any claim that the Government is not personally subject to the jurisdiction of the arbitration tribunal or any court by reason of sovereign immunity or otherwise or that the Government's property is exempt or immune from execution or attachment by reason of sovereign immunity.

#### 8.2 CONSENTS AND AUTHORIZATIONS (New Condition)

The Government shall apply its best endeavours to ensure that all consents and authorizations required to be given by it or any department of the Government, in order for the Concessionaire to carry on its business is granted and remains in full force and effect throughout the period of this Agreement and in particular so that the Concessionaire has the full right and power to effect remittances inside and outside the Republic for any purpose whatsoever including the repayment of loans, the retirement of capital and the payment of dividends, Management fees or distributions and to import or export plant, machinery, apparatus or equipment as the Concessionaire considers necessary.

#### 8.3 FORCE MAJEURE (New Condition)

- 8.3.1 When the obligations of any party under this Agreement, other than the payment of any fees or expenses, cannot be performed in full or in part according to the agreed terms as a direct result of an event that is unforeseeable and of which the occurrence and consequences cannot be prevented or avoided, such as earthquake, typhoon, flood, fire and other natural disasters, war, insurrection and similar military actions, civil unrest and strikes, slowdowns and other

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labour actions (an "Event of Force Majeure"), the Party that encounters such Event of Force Majeure (the "Hindered Party") shall not be deemed to be in breach of this Agreement if the following conditions are met:

- (a) the Event of Force Majeure was the direct cause of stoppage, impediment or delay encountered by the Hindered Party in performing its obligations under this Agreement;
- (b) the Hindered Party use its best efforts to perform its obligations under this Agreement and to reduce the losses to the other party arising from the Event of Force Majeure; and
- (c) at the time of the occurrence of the event of Force Majeure, the Hindered Party immediately inform the other party, providing written information on such event within fifteen days of its occurrence, including written statement of the reasons for the delay in implementing or partially implementing this Agreement.

8.3.2 If an Event of Force Majeure shall occur, the parties shall decide whether this Agreement shall be amended in light of the impact of the event upon the implementation hereof, and whether the Hindered Party should be partially or fully freed from its obligations hereunder.

#### 8.4 WAIVER (New Condition)

No waiver or relaxation partly or wholly of any condition of this Concession by the Grantor, the Government or the Concessionaire shall be valid or binding unless in writing and duly executed or signed by or on behalf of both the Grantor and/or the Government and the Concessionaire and any such waiver or relaxation shall apply (unless agreed otherwise and executed or signed as aforesaid) to the particular occasion in question and shall not be continuing and further shall not constitute a waiver or relaxation of any other Condition.

### 8.5 SEVERABILITY (New Condition)

In the event that all or any part of any Condition of this Concession shall be determined invalid, unlawful or unenforceable to any extent such Condition shall be severed from the remaining Conditions which shall continue to be valid and enforceable to the fullest extent permitted by law unless such severance substantially alters the basis and intent of the Concession whether expressed or implied in which case the Grantor, the Government and the Concessionaire shall consult in good faith with a view to defining a replacement condition.

### 8.6 REVOCAION (New Condition)

Subject to section 8.8 if any of the following events occurs:-

- (a) the Concessionaire contravenes or fails to comply with any of the material terms, provisions or limitations of this Concession and does not take action to remedy such contravention or failure to comply within sixty (60) days following written notice from the Grantor requiring such remedy; or
- (b) if the Concessionaire persistently contravenes or fails to comply with any of the non-material terms, provisions or limitations of this concession and action to remedy such persistent contravention or failure to comply is not taken by the Concessionaire within sixty (60) days following written notice by the Grantor or
- (c) an order is made for the winding up, or dissolution without winding up, or any resolution is passed for the winding up of the Concessionaire (otherwise than for the purposes of a reconstruction or amalgamation to which the Grantor has consented, such consent not to be unreasonably withheld) or a receiver, receiver and manager, official manager or like official is appointed over, or a holder of an encumbrance takes possession of, the whole or any substantial part of the undertaking and property of the Concessionaire or if the Concessionaire makes any arrangement or composition with its creditors generally or any similar event occurs in respect of the Concessionaire.

then the Grantor may in his absolute discretion revoke and determine this Concession and this Concession shall thereupon cease accordingly but without prejudice to any covenant or provision contained in this Concession and on the part of either the Concessionaire or the Government to be observed and performed and any other rights and obligations of the Grantor hereunder PROVIDED ALWAYS HOWEVER THAT where registered security is held by a Vanuatu licensed bank and/or financial institution over the assets and/or undertaking of the Concessionaire then in such case the Grantor shall not be entitled to exercise the said right of revocation unless and until a further period of thirty (30) days notice in writing has expired, such notice to be given by the Grantor to the bank or financial institution concerned prior to the expiry of the above sixty (60) day period.

8.7 COMPENSATION TO THE CONCESSIONAIRE (New Condition)

- (a) In the event this Concession terminates on the Termination Date (which expression shall mean the 31st day of December 2011) or on a date prior to the Termination Date as a result of revocation of this Concession by the Grantor pursuant to Section 8.6, then on the date of such termination, the Government shall purchase the assets and takeover the rights and obligations of the Concessionaire upon the conditions set out in Section 10 of the Convention - TRANSFER OF THE OPERATION UPON EXPIRY OF THE CONCESSION and including subsection 59 of the said Convention.
- (b) In the event that the Government, the Grantor or any agency or department thereof shall, prior to the expiration of the term of the Concession, take steps to terminate this Concession except when permitted to do so under the express terms of this Concession, the Government shall purchase the Concessionaire's Assets (which expression shall include all reasonable outstanding commitments incurred by the Concession in respect of the carrying on of the operation of the Concessionaire under this Concession) at a purchase price equal to the Current Non-Depreciated Value of the Assets at the date of such termination, and in addition, the Government shall pay to the Concessionaire the anticipated profits to the end of

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the Term lost as a result of the premature termination, calculated in the manner set out in Section 11 paragraphs 50 - 53 of the Convention.

- (c) The Government shall at the time of the purchase of the Concessionaire's Assets pursuant to section 8.7(b) hereof take over the national staff of the Concessionaire in order to ensure the continuity of their employment.

#### 8.8 EXCEPTIONS TO CONCESSIONAIRE'S OBLIGATIONS (New Condition)

The Concessionaire's obligations under this Concession shall have effect subject to the following exceptions and limitations:-

- (a) the Concessionaire is not obliged to do anything which is not practicable; and
- (b) the Concessionaire shall not be held to have failed to comply with any obligation if and to the extent that the Concessionaire is prevented from complying with such obligation by any physical, topographical or other natural obstacle, by the malfunction or failure of any electrical or mechanical plant, machinery or equipment, by the act of any nation (including the Government), authority, local authority or international organisation or as a result of fire, flood, cyclone, storm, explosion, accident, emergency, riot or war or other circumstances unforeseeable and beyond its reasonable control.

#### 8.9 NOT TO APPOINT A THIRD PARTY (New Condition)

The Grantor and/or the Government shall not issue to any person other than the Concessionaire any authority or permission to provide, at any time during the term of this Concession, the right to manufacture and supply electric current for lighting and power within the supply areas of Port Vila and Luganville held by the Concessionaire.

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SECTION 9 - SHAREHOLDERS AGREEMENT (New Condition)

The Government and the Concessionaire hereby mutually agree that the Shareholders Agreement made on the 23rd day of January 1990 between the Government of the one part and UNION FINANCIERE POUR L'INDUSTRIE ET L'ENERGIE of the other part shall continue in full force and effect for the term of the Concession hereby granted and the Government hereby agrees with the Concessionaire not to terminate vary or modify the said Shareholders Agreement in any way during the term of the said Concession except with the prior written consent of the Concessionaire.

SECTION 10 - INVESTMENT PLANS (New Condition)

The Concessionaire shall submit to the Grantor their investment plans on the implementation phases of the new power station. These plans should be submitted in good time to allow for mutual consultations.

\* SECTION 11 - TYPE OF FUEL (New Condition)

During the term of the Concession it may be necessary that the Concessionaire may wish to change the type of fuel used. In such event the Concessionaire shall inform the Grantor on the type of fuel they wish to use.

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SECTION 12 - PORT VILA AREA (varies Section 1 paragraph 1 of the Convention)

Notwithstanding anything previously contained in the Concession, the parties hereto hereby mutually agree that the present boundaries of the Port Vila area for the purposes of this Concession henceforth shall be the boundaries of the Port Vila Municipality as declared by Order 19 of 1980 pursuant to the Municipalities Act (Cap 160), being the boundaries delineated on the map annexed to the Declaration set out in the said Order and further this Concession shall extend to any modification or extension of such boundaries in the future.

For the avoidance of doubt the parties hereto hereby acknowledge and agree that the Concessionaire shall have the right to supply electricity within a 15 kilometre radius from the said boundaries to the Port Vila Municipality including any modification or extension of such boundaries.

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SECTION 13 - PURCHASE OF THE CONCESSION (Deletion of Section 11 paragraph 47 of the Convention)

Paragraph 47 of Section 11 of the Convention is hereby cancelled and shall be replaced by the following new paragraph:-

"47. At the end of a twenty five year period commencing from the date of execution of this Agreement, the Government shall have the possibility to purchase the entire operation of the Concession subject to the giving of at least two years prior notice in writing to the Concessionaire".

SECTION 14 - COMMENCEMENT (New Condition)

Save where the context otherwise requires, this Agreement shall take effect at the date of execution hereof.

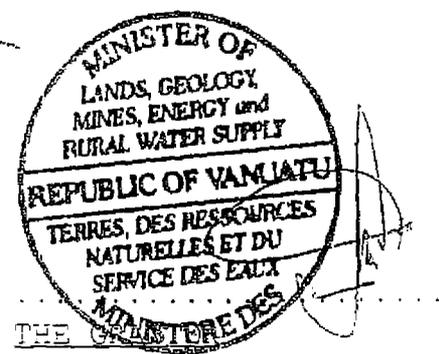
IN WITNESS WHEREOF the parties have hereunto set their hands and affixed their seals at Port Vila this 25<sup>th</sup> day of *SEPTEMBER* 1997.

SIGNED SEALED AND DELIVERED for )  
and on behalf of THE GOVERNMENT )  
OF THE REPUBLIC OF VANUATU )  
by its PRIME MINISTER THE )  
HONOURABLE SERGE VOHOR acting in )  
accordance with the previous )  
resolution of the Council of )  
Ministers and in the presence of: )



WITNESS: [Signature]

SIGNED SEALED AND DELIVERED by )  
THE HONOURABLE SATO KILMAN )  
Minister of Lands, Geology, Mines )  
Energy and Rural Water Supply )  
and also being the Minister )  
responsible for Power and in the )  
the presence of: )

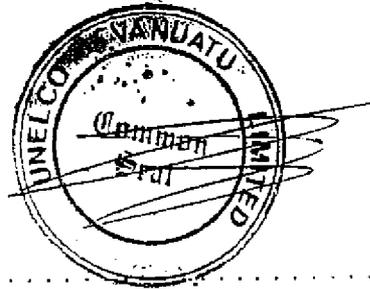


WITNESS: [Signature]

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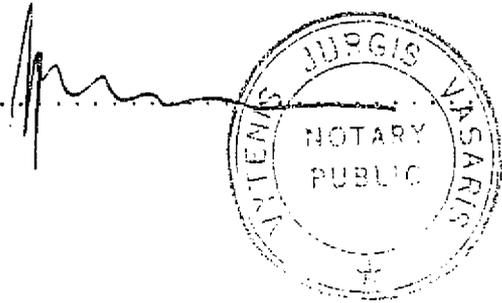
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SIGNED SEALED AND DELIVERED for  
and on behalf of UNION ELECTRIQUE  
DU VANUATU LIMITED by its duly  
authorised Director JEAN  
FRANCOIS BARBEAU and in the  
presence of:



.....  
THE CONCESSIONAIRE

WITNESS: .....



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THE SCHEDULE

In this Agreement, the expression "Concession" refers to and includes the following documents, which documents are varied or modified to the extent set out in this Agreement:-

1. Convention dated 15 August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila - specifications and consisting of 20 Sections under the heading SPECIFICATIONS plus Appendix 1 consisting of MODEL OF CONTRACTUAL BALANCE SHEET and made between The Government of Vanuatu represented by its Prime Minister and The Minister of Lands, Natural Resources and Energy "The GRANTOR" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
2. AMENDMENT NO 1 dated 23 January 1990 to the Specifications Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila between The Government of Vanuatu, represented by its Prime Minister and The Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
3. AMENDMENT NO 2 dated 1 July 1990 to the Specifications dated 15th August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and made between The Government of Vanuatu, represented by its Prime Minister and The Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
4. CONVENTION dated 15 August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila consisting of 19 sections and made between The Government of Vanuatu represented by its Prime Minister and the Minister of Land, Natural Resources and Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
5. AMENDMENT NO 1 dated 23 January 1990 to the Convention dated 15th August 1986 relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and made between The Government of Vanuatu represented by its Prime Minister and its Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part

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DATED the 25th day of SEPTEMBER 1997

BETWEEN: THE GOVERNMENT OF THE  
REPUBLIC OF VANUATU

"THE GOVERNMENT"

A N D: HONOURABLE SATO KILMAN,  
Minister of Lands,  
Geology, Mines,  
Energy and Rural Water  
Supply and also being  
the Minister responsible  
for Power

"THE GRANTOR"

A N D: UNION ELECTRIQUE DU  
VANUATU LIMITED

"THE CONCESSIONAIRE"

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AGREEMENT VARYING CONCESSION

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GEORGE VASARIS & CO  
Barristers & Solicitors  
Second Floor, Law House  
Kumul Highway  
Port Vila, Efate  
Republic of Vanuatu

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Telephone Number: 22457  
Facsimile Number: 22973

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**ADDENDUM VARYING THE TARIFFS OF THE CONTRACT FOR THE  
GENERATION AND PUBLIC SUPPLY OF ELECTRIC POWER IN THE  
CONCESSIONS OF PORT VILA, LUGANVILLE, MALAKULA and  
TANNA**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF VANUATU**

**AND**

**THE HONOURABLE MINISTER OF  
LANDS AND NATURAL RESOURCES**

**AND**

**UNION ELECTRIQUE DU VANUATU LTD**

*J*

*HL*

*Wf*

THIS AGREEMENT is made the 18<sup>th</sup> of December 2007.

BETWEEN: THE GOVERNMENT OF THE REPUBLIC OF VANUATU  
(hereinafter called "the Government") of the first part

AND: HONOURABLE Maxima Carlot Korman Minister of Lands and Natural Resources, and also being the Minister responsible for Power for the purposes of the Electricity Supply Act (Cap 65) (hereinafter called "the Grantor") of the second part

AND: UNION ELECTRIQUE DU VANUATU LIMITED a local Vanuatu Company having its registered office situate at C/o Second Floor, Law House, Kumul Highway, Port Vila, Efate in the Republic of Vanuatu (hereinafter called "the Concessionaire") of the third part

WHEREAS:

- A. The frequent and large variations in the price of petroleum products are passed on to the price of electricity though the quarterly adjustment with some considerable delay.
- B. a new contract has been negotiated between UNELCO SUEZ and the petroleum company allowing the adjustment of the price of fuel with the arrival of each tanker in Port Vila.
- C. Coconut oil mixed with diesel fuel is becoming more widely used in the generation of electricity in Vanuatu.
- D. The Agreement Varying Concession signed on the 25<sup>th</sup> of September 1997 and modified by the addendum of the 1<sup>st</sup> of September 1998 between the Concessionaire and the Government, stipulates in Section 7.5 as follows :

**7.5 REVISION OF THE REFERENCE PRICE AND THE PRICE ADJUSTMENT FORMULA**

*"The reference price  $P_0$ , the quarterly price adjustment formula, and the tariff structure may be revised at the request of either the Grantor or the Concessionaire in the following cases :*

- \* *If more than 5 years have elapsed since the date of effect of this amendment or since it was last revised.*
- \* *If the price  $P$  has increased or decreased by more than 15% as compared to the reference price  $P_0$  defined in section 2, or if one of the parameters of the quarterly price adjustment formula increased or decreased by more than 25% as compared to the values of the base indices defined in section 3.*

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- \* *If the fiscal conditions used for the establishment of the reference price in section 7.1 have been modified*
- \* *If a revision appears necessary to allocate sufficient funds to the « replacement and major maintenance fund » as defined in article 5 of the Agreement Varying Concession of the 25th of September 1997, depending on the level of expenses to be debited from the fund.*
- \* *If some new event should cause a major variation in the costs to the Concessionaire such that a review of tariffs appears necessary to pass on the variation in cost due to the new conditions of power generation and distribution in an equitable manner on to the price of electricity.*
- \* *Or if the Grantor and the Concessionaire agree to modify the tariff structure, either by creating new categories of consumers or cancelling existing ones, or by revising the coefficients to be applied to the base price used to calculate the price of energy for the various categories of supply, provided that such modifications cause neither extra profit nor loss for the Concessionaire.*

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:-**

**SECTION 1 - VARIATION OF THE CONCESSION**

The terms and conditions of the Concession (being the documents described in the Schedule hereto) are hereby incorporated herein by express reference save to the extent that the same are hereby varied or modified and shall otherwise remain in full force and effect.

**SECTION 2 : PRICE ADJUSTMENT FORMULA**

(replaces Section 3 of the Addendum Varying the Tariffs of the Contracts for the Generation and Public Supply of Electric Power in Port Vila and Luganville signed on the 1st of September 1998)

The base price P used for billing of electricity and fixed charges, advance on consumption, penalties applicable to the Concessionaire, and the reconnection fee after interruption to supply, shall be calculated on the 1st of each month and for the first time on the 1<sup>st</sup> of December 2007, through the application of the price adjustment formula below :

$$P = P_0 \times [ 0,09 + 0,44 \times G/G_0 + 0,17 \times M/M_0 + 0,30 \times IM/IM_0 \times (0,60 + 0,40 \times C/C_0) ]$$

Where :

- G is the weighted average price of a litre of diesel fuel and coconut oil purchased in Port Vila, Luganville, Mallicolo and Tanna, expressed in Vatu/litre and calculated as follows :

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$$G = \frac{G_V L_V + G_L L_L + G_M L_M + G_T L_T + G_C L_C}{L_V + L_L + L_M + L_T + (L_C \times K_{pci})}$$

where :

$G_V$  is the average price of a litre of diesel fuel delivered to the Port Vila power stations calculated by dividing the total amount of invoices received by UNELCO by the corresponding amount of diesel fuel delivered during the month preceding the date of adjustment of tariffs.

$L_V$  is the number of litres of diesel fuel consumed by the Port Vila diesel power stations during the month preceding the date of adjustment of tariffs

$G_L$  is the average price of a litre of diesel fuel delivered to the Luganville diesel power stations calculated by dividing the total amount of invoices received by UNELCO SUEZ by the corresponding amount of diesel fuel delivered during the month preceding the date of adjustment of tariffs.

$L_L$  is the number of litres of diesel fuel which would have been consumed by the Luganville diesel power station during the month preceding the date of adjustment of tariffs if the power generation had been entirely produced by diesel generators, calculated as follows :

$$L_L = (C_{sg}/M_{vg}) \times (E_h + E_d)$$

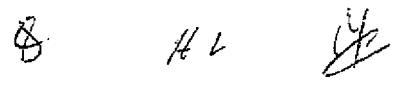
where :

$C_{sg}$  and  $M_{vg}$  represent the specific consumption of diesel oil (in grams/kWh) and the density of diesel fuel (in grams/litre) respectively as defined in section 18 of the addendum dated the 03 March 1995 to the Concession Contract of Luganville.

$E_h$  is the energy produced by the hydroelectric power station (in kWh) as defined in the same section 18, during the month preceding the date of adjustment of tariffs.

$E_d$  is the energy produced by the diesel power station in Luganville (in kWh) during the month preceding the date of adjustment of tariffs.

$G_m$  is the average price of a litre of diesel fuel delivered to the Malakula power station calculated by dividing the total amount of invoices received by UNELCO SUEZ by the corresponding amount of diesel fuel delivered during the month preceding the date of adjustment of tariffs.



- Lv is the number of litres of diesel fuel consumed by the Malakula diesel power station during the month preceding the date of adjustment of tariffs
- Gt is the average price of a litre of diesel fuel delivered to the Tanna power station calculated by dividing the total amount of invoices received by UNELCO SUEZ by the corresponding amount of diesel fuel delivered during the month preceding the date of adjustment of tariffs.
- Lt is the number of litres of diesel fuel consumed by the Tanna diesel power station during the month preceding the date of adjustment of tariffs
- Gc is the average price of a litre of coconut oil delivered to the UNELCO SUEZ power stations calculated by dividing the total amount of invoices received by UNELCO by the corresponding amount of coconut oil delivered during the month preceding the date of adjustment of tariffs.
- Lc is the number of litres of coconut oil consumed by the Port Vila diesel power stations during the month preceding the date of adjustment of tariffs
- Kpci represents the ratio of calorific value between diesel oil and coconut oil and is used to convert the number of litres of coconut oil into equivalent litres of diesel oil.

In the event that  $G_v$ ,  $G_L$ ,  $G_M$ ,  $G_T$  or  $G_C$  should be zero, the value for the previous month shall be used.

M is the average of the daily wage for a single male not receiving board or lodging in Port Vila at IFIRA WHARF and STEVEDORING, classified as an " inexperienced labourer ", and of the classification " PO2 " with the Public Service of the Vanuatu Government, for the month preceding the tariff adjustment.

If a scale of wages or a collective agreement is concluded in VANUATU, or if a cost of living index should be published on a regular basis, the Concessionaire and the Grantor shall confer to modify the definition of M.

The application of the new index shall be such as to cause neither gain nor loss to the Concessionaire.

IM is the average of the indices " Matériel " (equipment) published by the " Journal Officiel " (New Caledonia Gazette) for the first month of the two months preceding the date of adjustment of tariffs.

C is the average of the daily currency exchange rate for the month preceding the date of adjustment of tariffs, as published by the Banque d'Hawai in the column " selling rate ", for the Pacific Franc (XPF or CFP) to Vatu (expressed in Vatu/XPF).

*(Handwritten initials)*

The base indices used to determine the reference price Po in section 2 of the Addendum Varying the Tariffs of the Contracts for the Generation and Public Supply of Electric Power in Port Vila and Luganville signed on the 1st of September 1998), are as follows :

- Go = 38.80 Vatu/litre
- Mo = 1118 Vatu
- IMo = 111.78
- Co = 1.2030 Vatu/XPF

In the event that certain indices should no longer be published or available, or no longer be representative of variations in economic conditions for which they are used, the Concessionaire and the Grantor shall define replacement indices by common accord.

In calculating the base price P, each variable shall be rounded off to the fourth decimal and the price P thus calculated shall be rounded off to 2 decimals.

For the third quarter 2007, the price P may not exceed the value of the price P as revised as at the 1<sup>st</sup> of July 2007, i.e. 46.48 Vatu/kWh

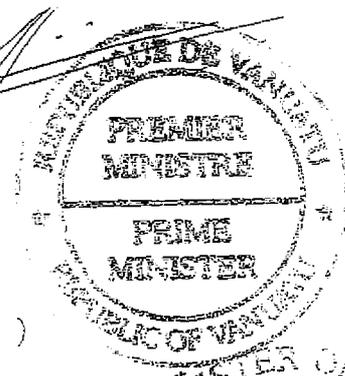
**SECTION 6 - COMMENCEMENT**

This Agreement shall take effect on the 1<sup>st</sup> of January 2008.

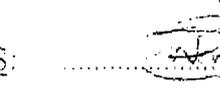
**IN WITNESS WHEREOF** the parties have hereunto set their hands and affixed their seals at Port Vila this 18<sup>th</sup> of December 2007.

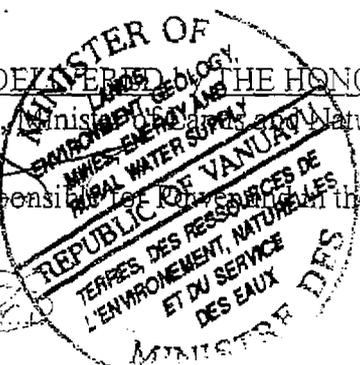
SIGNED SEALED AND DELIVERED for and on behalf of )  
THE GOVERNMENT OF THE REPUBLIC OF VANUATU ) THE GOVERNMENT  
 by its PRIME MINISTER THE HONOURABLE )  
Ham Lini VANUAROROA acting in accordance with the previous )  
GOVERNMENT resolution of the Council of Ministers and in )  
 the presence of :

WITNESS: 

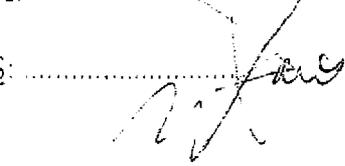


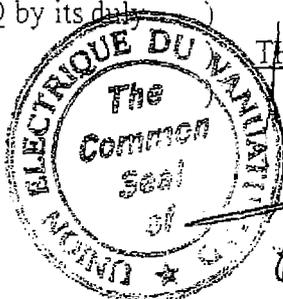
SIGNED SEALED AND DELIVERED by the HONOURABLE )  
Maxime Carlot KORMAN, Minister of Lands, Environment, )  
 Energy and Natural Resources and )  
 also being the Minister responsible for the )  
 presence of :

WITNESS: 



SIGNED SEALED AND DELIVERED for and on behalf of )  
UNION ELECTRIQUE DU VANUATU LIMITED by its duly )  
 authorised Director Mr john CHANIEL and in the )  
 presence of : )  
 THE CONCESSIONAIRE )

WITNESS: 



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## THE SCHEDULE

In this Agreement, the expression "Concession" refers to and includes the following documents, which documents are varied or modified to the extent set out in this Agreement:-

1. Contract dated 15 August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and consisting of 20 Sections under the heading SPECIFICATIONS plus Appendix 1 consisting of MODEL OF CONTRACTUAL BALANCE SHEET and made between The Government of Vanuatu represented by its Prime Minister and The Minister of Lands, Natural Resources and Energy "The GRANTOR" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
2. AMENDMENT NO 1 dated 23 January 1990 - To the Specifications Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila between The Government of Vanuatu, represented by its Prime Minister and The Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
3. AMENDMENT NO 2 dated 1 July 1990 - To the Specifications dated 15th August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and made between The Government of Vanuatu, represented by its Prime Minister and The Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
4. CONVENTION dated 15 August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and made between The Government of Vanuatu represented by its Prime Minister and the Minister of Land, Natural Resources and Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
5. AMENDMENT NO 1 dated 23 January 1990 - To the Convention dated 15th August 1986 relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and made between The Government of Vanuatu represented by its Prime Minister and its Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part
6. Agreement vaying Concession for the Generation and Public Supply of Electric Power in Port-Vila, dated the 25th of September 1997 between the Government of the Republic of Vanuatu, represented by its Prime Minister, "the Government", of the first part, and the Honorable Sato KLMAN, Minister of Lands, Geology, Mines, Energy and Rural Water Supply, also being the Minister responsible for Power, for the purpose of the Electricity Supply Act (CAP 65), "the Grantor", of the second part, and Union Electrique du Vanuatu Ltd of the third part.

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7. Contract dated 23 January 1990 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and consisting of 21 Sections under the heading SPECIFICATIONS plus Appendix 1 consisting of MODEL OF CONTRACTUAL BALANCE SHEET and made between The Government of Vanuatu represented by its Prime Minister and The Minister of Energy "The GRANTOR" of the one part and Companie Union Electrique de Santo Limited (CES) "the Concessionaire" of the other part;
8. Contract dated 23 January 1990 Relating to the Concession for the Generation and Public Supply of Electric Power in Luganville and consisting of 19 Sections under the heading CONVENTION made between The Government of Vanuatu represented by its Prime Minister and the Minister of Energy "the Grantor" of the one part and Companie Electrique de Santo Limited (CES), "the Concessionaire" of the other part;
9. Addendum dated 3 March 1995 to the Concession for the Generation and Public Supply of Electric Power in Luganville, under the heading « Addendum to the Contract of Concession for the Generation and Public Supply of Electric Power in Luganville relating to the handing over of the Sarakata Hydroelectric Power Station » and made between The Government of the Republic of Vanuatu represented by its Minister of Lands, Natural Resources and Energy "The GRANTOR" of the one part and Union Electrique du Vanuatu Limited "the Concessionaire" of the other part;
10. Addendum dated 1<sup>st</sup> September 1998 to the Concession for the Generation and Public Supply of Electric Power in Port Vila and Luganville, under the heading "Addendum Varying the Tariffs of the Contracts for the Generation and Public Supply of Electric Power in Port Vila and Luganville" signed between the Government of the Republic of Vanuatu, represented by its Prime Minister of the first part and by its Minister of Lands, Natural Resources and Energy "The GRANTOR" of the second part and Union Electrique du Vanuatu Limited "the Concessionaire" of the third part;

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