

AMENDMENT AGREEMENT

POWER SOURCE FRAMEWORK AGREEMENT

BETWEEN

GOVERNMENT OF MONGOLIA

AND

OYU TOLGOI LLC

2020

Amendment Agreement - Power Source Framework Agreement

1 Parties

- (a) The Government of Mongolia represented jointly by the Minister for Energy, Davaasuren Tserenpil and by Tleikhan Almalik, the Head of the Energy Regulatory Commission (**Government**); and
- (b) Oyu Tolgoi LLC, a company incorporated in Mongolia, of 12th Floor, Monnis Tower, Chinggis Avenue, 15, Sukhbaatar District, Ulaanbaatar 14240, Mongolia represented jointly by Batsukh Galsan, Chairman of the Board of Directors and Armando Torres, Chief Executive Officer (**OT LLC**).

2 Recitals

- (a) The Government and OT LLC entered into the Power Source Framework Agreement on 31 December 2018 for the purposes of developing a TT Power Plant or other domestic sources to supply power to the OT Project (**PSFA**). Defined terms used in this agreement have the same meaning given to them in the PSFA.
- (b) The Government of Mongolia, during its 8th April 2020 session, passed resolution no.124 to build Tavantolgoi power plant using state funds (**SOPP**) to supply power to the OT Project.
- (c) The parties have agreed to suspend and amend the PSFA to prioritise the SOPP and progress the SOPP PPA (defined below), to terminate the PSFA on signing of the SOPP PPA, and to provide for certain other consequential amendments, as set out in this agreement.

3 Suspension, amendment and termination of PSFA and prioritisation of SOPP

- (a) With effect on and from the date of this agreement, the parties agree to the following terms, which are supplemental to and form part of the PSFA (and the activities under the following terms will accordingly be implementing the PSFA):
 - (i) The second 2 (two) month discussion period referred to in clause 7.4(b) of the PSFA is suspended until the first occasion on which a SOPP Milestone (other than the SOPP Milestone in clause 3(a)(ii)(C)(2)(execution of SOPP PPA)) is not satisfied.
 - (ii) Without limiting the other provisions of the PSFA:
 - (A) the parties shall prefer and prioritise SOPP, unless and until clause 3(a)(iv) applies;
 - (B) the parties shall conduct and progress negotiations on a form of power purchase agreement between the parties and the Relevant Entity for the supply of power from SOPP to OT LLC (**SOPP PPA**); and
 - (C) the following agreed milestones (**SOPP Milestones**) will apply to the SOPP option:
 - (1) execution of the extension agreements referred to in clause 3(b) – by 1 March 2021;
 - (2) execution of the SOPP PPA - by 31 March 2021;
 - (3) commencement of construction of SOPP - by 1 July 2021; and
 - (4) commissioning and commencement of the supply of reliable and uninterrupted power from SOPP to the OT Project - by the expiry of 48 months after the commencement of construction.

- (iii) The SOPP PPA must provide for:
 - (A) upon the signing of the SOPP PPA, the termination of the PSFA on terms to be agreed between the parties; and
 - (B) (1) long term reliable and uninterrupted supply of no less than 20 years, (2) supply at a mutually-negotiated and competitive price as set out in the SOPP PPA, (3) no requirement for funding or financial support from OT LLC or any of OT LLC's shareholders, (4) OT LLC will prioritise its supply from SOPP, and will only utilise back-up power sources to the extent SOPP lacks capacity to supply, (5) acknowledgment by the Government of OT LLC's compliance with the OT Investment Agreement, and (6) OT LLC's right to implement an alternative domestic power solution for the OT Project (from the options as contemplated in clause 3(a)(iv)) if SOPP does not proceed or the SOPP PPA terminates early.
- (iv) Subject to clause 3(a)(iii)(B)(6), if:
 - (A) any of the SOPP Milestones (other than the SOPP Milestone in clause 3(a)(ii)(C)(2)(execution of SOPP PPA)) is not achieved by the date for its satisfaction as set out in the sub-paragraphs of clause 3(a)(ii)(C), subject to extension due to any Delay Event which is outside the Government's control (or such other date as may be agreed between the parties in writing); or
 - (B) the Government formally announces, or provides written notice to OT LLC, that the Government no longer wishes to pursue SOPP,

then thereafter OT LLC may and has the right to develop and implement a power solution from the power options listed in clause 7.4(b) of the PSFA, in accordance with the terms of the PSFA, and OT LLC will complete construction of the solution, within 48 months after the relevant event under sub-paragraphs (A) or (B) of this clause 3(a)(iv) has occurred, subject to extension due to any Delay Events.
- (b) Within four weeks after the date of this agreement, the parties will commence work promptly on, and will work diligently and in good faith to achieve, by the relevant SOPP Milestone date, signed agreements to extend OT LLC's existing power import agreements from the date when they currently expire (3 July 2023) for a period to be determined by OT LLC and to be negotiated with IMPC, provided that the extension agreements preserve the ability to terminate the agreements as early as 31 December 2024 to enable OT LLC to prioritise supply from its domestic source of power once that supply has demonstrated stable, reliable and continuous production (to be determined under an agreed testing regime to be set out in the SOPP PPA), in order to ensure that there is no disruption to the OT Project's ongoing development (including the 'undercut decision') and its operations.
- (c) Except as specifically amended by this agreement, the provisions of the PSFA remain in full force and effect. For the avoidance of doubt, clauses 4.1(b)(ii) and 4.3(c) of the PSFA are not applicable to SOPP.

4 Miscellaneous

- (a) The Government represents and warrants that its promises, acknowledgements and agreements under this agreement are lawful and binding on it (including successor governments and all levels of government ministries, agencies and governmental bodies of any kind) and its signatories are duly authorised by the Government of Mongolia Resolution Number 201 of 27 May 2020 to execute this agreement for and on behalf of the Government.

- (b) OT LLC represents and warrants that its promises, acknowledgements and agreements under this agreement are lawful and binding and its signatories are duly authorised by its Board of Directors to execute this agreement for and on behalf of OT LLC.
- (c) The parties agree that clauses 9, 10(b) and 10(f) of the PSFA shall apply to this agreement as if set out in full herein.

This Amendment Agreement – Power Source Framework Agreement is executed on ___ June 2020

For and on behalf of the GOVERNMENT OF MONGOLIA, by its duly authorised representatives:

Davaasuren Tserenpil
Minister for Energy

Tleikhan Almalik
Head of the Energy Regulatory Commission

Signature:

Signature:

Date:

Date:

For and on behalf of OT LLC, by its duly authorised representatives:

Batsukh Galsan
Chairman of the Board of Directors

Armando Torres
Chief Executive Officer

Signature:

Signature:

Date

Date: