



GOVERNMENT OF SIERRA LEONE

Ministry of Lands Housing and Country Planning

JOINT VENTURE AGREEMENT

by and between

THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE

REPRESENTED BY

THE MINISTER OF LANDS, HOUSING AND COUNTRY PLANNING

and

TAF AFRICA GLOBAL LIMITED

CONFIDENTIAL

Dated 31st JANUARY 2023

JOINT VENTURE AGREEMENT

by and between

**THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE REPRESENTED BY
THE MINISTER OF LANDS, HOUSING AND COUNTRY PLANNING**

and

TAF AFRICA GLOBAL LIMITED

Relating to
the Design, Build, Finance, Sale and Management of an Ultra-Modern City Development
comprising high-quality affordable housing units plus infrastructure.



THIS **JOINT VENTURE AGREEMENT ("JVA")** is dated this 31st day of JANUARY, 2023, and made **between:**

(1) **THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE, REPRESENTED BY THE MINISTER OF LANDS, HOUSING, AND COUNTRY PLANNING** of 3rd Floor, Youyi Building, Brookfields, Freetown, Sierra Leone (hereinafter referred to as "**GoSL**" or "Government" which expression may, where the context so admits, include its successors-in-office and assigns) of the first part;

AND

(2) **TAF AFRICA GLOBAL LIMITED (TAG)**, with its principal place of business at 17-19 Kaira Avenue, Madiba Mall, Brufut Gardens Estate, P.O. Box 121, The Gambia (hereinafter referred to as the "**TAG**" which expression shall where the context so admits include its legal representatives, successors-in-title and assigns) of the second part.

WHEREAS:

- (1) **GoSL** in furtherance of its infrastructural and developmental programme for the Country through private sector participation in the sector is desirous to meet the real estate needs of Sierra Leone.
- (2) The Government, through the Ministry of Lands, Housing, and Country Planning (MLHCP) has signed a Memorandum of Understanding (MoU) with TAG on the 24th of August, 2021 for the design, build, finance, sale and management of an ultra-modern city development comprising several housing units plus infrastructure (hereafter referred to as the "**Project**").
- (3) **TAG** is a leading real estate development company with a focus on project planning, financing and execution of infrastructural and real estate projects, and has expressed interest in collaborating with **GoSL** in executing the Project.
- (4) **TAG** represents that it has the financial capacity and technical ability to execute the Project.
- (5) In recognition of the risks associated with the Project; the economic and social importance of the Project to Sierra Leone and in exchange for the obligations of TAG pursuant to this Agreement, this Agreement contains incentives, assurances, and protections granted by the Government which are indispensable to the realisation of the Project.
- (6) Parties agree to jointly execute the Project in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, THE PARTIES HEREBY AGREE as follows:

1. DEFINITIONS

1.1 In this JVA, unless the subject or context otherwise requires, the following definitions shall apply-

"Approvals" mean all approvals, licenses, consents, or permits such as building permits as well as any other approvals, licenses, consents, and/or permits including employment permits for foreign employees as may be necessary for **TAG** to obtain from any relevant authority in connection with the execution of the Project;

"Approved Design" means the final outline and detailed construction design for the Project in accordance with the procedure specified;

"Bankers" mean all persons or entities granting credit facility or facilities to **TAG** pursuant to the financing agreements in connection with the financing of the Project;

"Certificate of Commencement" means the certificate issued by **GoSL** to **TAG** to commence the Project;

"Completion Certificate" means the certificate issued in accordance with this Agreement;

"Commencement Date" means the date of handover of the Project Site and physical possession of the Project Site by **TAG**;

"Construction Commencement" means the commencement of the construction works in accordance with the terms of this Agreement;

"Construction completion" means final completion of the construction works in accordance with this Agreement;

"Construction works" means the works concerning the construction and completion of the Project;

"Country" means the Republic of Sierra Leone;

"Equipment" means the tools and equipment used for the purposes of carrying out the construction works and marketing the Project;

"Financial Closing" means the execution and delivery of such financing agreement as may be required to evidence the consummation of all transactions necessary for obtaining financing for the Project, together with the receipt of such equity commitments and contributions as may be required by the financing agreements;

"Financing Agreements" mean such agreements as may be entered into between **TAG** and its bankers in respect of credit facility or facilities granted to **TAG** for the implementation of the Project;

"Government" means the Government of the Republic of Sierra Leone;

"Materials" mean all materials and machinery that are to be incorporated into the Project whether by way of construction or repair;

"Relevant Authorities" mean any ministry, department, agency, directorate, public authority, body, or other person having jurisdiction in Sierra Leone with respect to the development of the Project;

"Right to Use" means the right to use the site for the purposes of this Agreement without undue interference by any other person or entity;

"Right of Way" means the rights of passage over or under and of access and egress to and from, the site and any part or parts thereof for the purposes of constructing and completing the Project;

"Special Purpose Vehicle (SPV)" means a limited liability company to be incorporated with a registered office in Sierra Leone on terms provided herein as by **GoSL** and **TAG** for the purpose of undertaking the construction and completion of the Project as well as the sale and the management of the Project upon completion; and

"Utilities" means water, sewerage, electricity, gas, and telecommunications.

- 1.2 The recitals and the annexures to this Agreement shall form an integral part hereof and references to annexures shall be annexures to this Agreement unless otherwise agreed by the Parties.
- 1.3 The headings to clauses to this Agreement are inserted for convenience or reference only and shall not in any way affect the interpretation of this Agreement.
- 1.4 References to any party or person referred to in this JVA include references to its respective successors and permitted assigns.

2. DOCUMENTS

The following attached documents shall be read and construed as forming part of this JVA-

- (a) Feasibility Report
- (b) Specifications/Technical Drawings;
- (c) Scope of Works – Roads and Services;
- (d) Scope of Works - Waste Management Facility;
- (e) Scope of Works – Electrical Distribution and Reticulation;
- (f) Scope of Works – Sewage Management;
- (g) Work Programme;
- (h) Quality Plan;
- (i) Health, Safety, and Environmental Management Plan;
- (j) Business Plan; and
- (k) Environmental and Social Impact Assessment (ESIA) Report.

3. SCOPE OF THE PROJECT

The Scope of this Project shall be for the development, building, and management of an an ultra-modern city development comprising several housing units at John Obey, Off Peninsula Road, Western Rural District as well as the development and delivery of Utilities in the Project to be called **(NAME TO BE DETERMND)**.

4. COMMENCEMENT AND TERM

- 4.1 **TAG** undertakes to complete the project in not more than 5 (five) years from the Commencement Date of the Project or sod-turning ceremony as shall be set forth in the Works Agreement wherein the first year shall be deemed pre-construction period. This Agreement shall commence upon the effective date upon the Parties executing this Agreement (the "Effective Date") and shall continue in force for the five-year construction period or until Completion Certificate is issued ("Initial Term") unless extended or terminated as provided herein. ("Term").
- 4.2 Notwithstanding the provisions of sub-clause 4.1, the term may be renewed upon terms and conditions to be mutually agreed upon by the Parties.
- 4.3 Upon written request by one Party made within thirty (30) days prior to the end of the Term, where the other party is desirous of extending this JVA, both Parties shall negotiate and mutually agree upon the terms and conditions for the renewal of this JVA following the expiration of the Initial Term.
- 4.4 The Project shall commence upon-
- 4.4.1 The submission, approval, and provision by both Parties of the following-
- (a) outline of Contract Drawings;
 - (b) feasibility report which shall include-
 - (i) environmental and social impact analysis;
 - (ii) business plan and commercial viability analysis; demand studies and
 - (iii) value for money analysis;
 - (c) project finance model;
 - (d) training and capacity-building plan;
 - (e) local content and employment plan;
 - (f) consents, permits, and approvals required; and
 - (g) schematic work program.
- 4.4.2 Securing the necessary approvals from the Government.
- 4.4.3 Acquisition and valuation of the land for the Project.
- 4.4.4 Incorporation of the SPV and the signing of the Shareholders' Agreement.
- 4.5 The Parties shall comply with clauses 4.4.1 to 4.4.4 of this JVA within thirty (30) days from the execution of this JVA.
- 4.6 Where the reports as listed in clause 4.4.1 show that the Project is not viable, the Parties shall terminate this JVA.
- 4.7 Where the reports as listed in clause 4.4.1 show that the Project is viable, the Project shall commence upon the occurrence of the Financial Closing where there is sufficient debt financing and equity to complete the Project.

5. COMPLETION OF PROJECT

TAG shall complete the Project within five (5) years from the Commencement Date.

6. COST OF PROJECT

6.1 The cost estimate (in Sierra Leonean Leones) for the Project shall be determined and agreed to by the Parties.

6.2 **TAG** shall use its best endeavour to maximize the financial, geological, and design criteria to obtain a minimum cost per unit of each unit of development that is commensurate with the design and quality that shall be agreed by Parties.

7. PROVISION OF LAND FOR PROJECT

GoSL shall provide land measuring approximately 200 acres at John Obey, Off Peninsula Road, Western Rural District for the execution of the Project ('Project Site').

8. INCORPORATION OF A SPECIAL PURPOSE VEHICLE (SPV)

8.1 Parties shall within thirty (30) days after the execution of this JVA, incorporate a limited liability company to serve as a Special Purpose Vehicle (SPV) for the execution of the Project.

8.2 **TAG** shall be the operator of the SPV with oversight from the Board of Directors which shall be made up of representatives from **TAG** and **GoSL**.

8.3 The relationship between the Parties with respect to the SPV shall be guided by a Shareholders' Agreement between the Parties to be executed upon the incorporation of the SPV.

8.4 **GoSL** shall be responsible for such equity contribution as is required to register the SPV with the relevant authorities.

8.5 The authorized share capital of the SPV shall be the minimum required by law.

8.6 The shareholding of each Party in the SPV shall be as follows-

GoSL	-	20%
TAG	-	80%
Total	-	100%

9. BOARD OF DIRECTORS AND MANAGERS

9.1 The Board of Directors shall consist of seven (7) Directors, four (4) of whom shall be appointed by **TAG** and three (3) by **GoSL**.

9.2 The Chairman of the Board shall be appointed by **TAG**. The Chairman shall have a casting vote in case of a deadlock.

9.3 The Managing Director of the SPV shall be appointed by **TAG** while the Secretary shall be appointed by the Board of Directors.

- 9.4 The constitutional documents of the SPV and the Shareholders' Agreement shall govern all the procedural requirements in relation to the management of the SPV including but not limited to the procedure of appointment and removal of Directors, the convention, and quorum of the meeting of the shareholders and Board of Directors and the resolution of a deadlock.
- 9.5 The Parties shall ensure that meetings of the SPV and the Board of Directors are held as may be necessary to-
- (a) authorize the directors of the SPV to issue and allot ordinary shares to the Parties as agreed upon;
 - (b) approve any pre-incorporation contracts or matters executed or arranged in furtherance of the Project by any of the Parties with the prior consent of the other Party; and
 - (c) appoint additional directors and auditors of the SPV (if necessary).

10. CONDITIONS PRECEDENT

- 10.1 The completion of this JVA is conditional upon the satisfaction of the following conditions-
- (a) **GoSL** shall use all reasonable endeavours to facilitate and satisfy the following conditions precedent prior to the implementation of the JVA –
 - i. Provide the Project Site which is unencumbered and deliver physical possession of the Project Site to TAG;
 - ii. Facilitate the provisions and or submission of approvals and other correspondence from relevant government institutions authorizing/confirming the partnership between the GoSL and TAG; and
 - iii. In collaboration with the relevant government institutions and the private partner as required ensure the provision of an access road, water, and electricity to the Project Site for the successful execution of the Project.
 - (b) **TAG** shall use all reasonable endeavours to satisfy or procure the satisfaction of the following conditions precedent prior to the implementation of the JVA –
 - i. Provision of its incorporation documents to **GoSL** confirming that it is properly incorporated in its country of operation;
 - ii. delivery of the Performance Bond for Phase I; and
 - iii. Financial Closing for Phase I

10.2 Satisfaction of Conditions Precedent and Cause for Termination

- 10.2.1 Parties shall use their best endeavours to procure the satisfaction of the conditions precedent specified in clause 10.1 as soon as practicable and in any event not later than three (3) months after the date of execution of this JVA.

- 10.2.2 Where the conditions specified in clause 10.1 are not fulfilled by mutual agreement of the Parties within six (6) months from the date of execution of this JVA, each Party may terminate this Agreement and neither party hereto shall be liable to the other for any damages or losses in respect thereof, save that if one Party has purposefully failed to fulfil any of these conditions, such Party shall be liable to the other Party for any damages or losses in respect thereof.
- 10.2.3 In the event that **TAG** is unable to mobilize to the site within ninety (90) days of the handover of physical possession of the Project Site by **GoSL**, the **GoSL** reserves the right to terminate this JVA after the expiration of the issuance of a sixty (60) day notice to **TAG** to mobilize to the site or have the JVA terminated.
- 10.2.4 Within seven (7) days of the satisfaction of the conditions precedent specified in clause 10.1, **GoSL** shall issue the Certificate of Commencement to **TAG**.
- 10.2.5 The following agreements shall be executed in the agreed form-
- (a) the **Turn-key-based Engineering, Procurement and Construction ("EPC")** Agreement between the SPV and **TAG** for the Project. The **EPC** shall expressly specify the types, materials, costs, and quality of units to be constructed under this Agreement where **TAG** shall be awarded the **EPC** Agreement as an exclusive, main contractor. This Agreement between **TAG** and the SPV shall be a separate contract which shall be a turn-key agreement.
- 10.2.6 Parties shall use their best endeavours to ensure that the Agreements listed in clauses 10.2.5 (a) to (b) are executed not later than sixty (60) days from the date of completion of the incorporation of the SPV. Unless mutually agreed to the contrary, this JVA shall extend automatically.
- 10.2.7 Where both Parties agree to terminate this JVA due to non-execution of the Agreements listed in clause 10.2.5 (a) to (b), the Parties shall bear their own costs and expenses which have been incurred thus far and any balance in equity shall be disbursed to the Parties in proportion to their respective cash injection.

11. CONTRACT CURRENCY

The Parties agree that all payments and receipts under this JVA shall be done in Sierra Leonean Leone (SLL).

12. RE-POSSESSION OF SITE

RE-POSSESSION OF PROJECT SITE

GoSL reserves the right to repossess the allocated land and the Project Site in the event that **TAG** is unable to finance the Project after eighteen (18) months following the physical possession of the Project Site, creation of the SPV, and the issuance of title documents over the Project Site

and the **GoSL** shall engage another developer to either take over the allocated land or complete the execution of the Project.

13. STATUS OF JVA

- 13.1 Each Party shall act in good faith and exercise all voting rights and powers conferred on them in relation to the SPV so as to ensure that at all times, the provisions of this JVA are duly and promptly observed and given full force and effect according to its spirit and intention.
- 13.2 Where any of the provisions of the regulations of the SPV or the Shareholders' Agreement between the Parties at any time conflict with any provisions of this JVA, this JVA shall prevail and the Parties shall whenever necessary, exercise all voting and other rights and powers available to them to ensure the amendment, waiver or suspension of the relevant provisions of the regulations and the Shareholders' Agreement to the extent necessary to permit the SPV and its affairs to be administered as provided in this JVA.

14. PROFIT SHARING

- 14.1 The profits from the Project be shared in the ratio of-
- (a) eighty percent (80%) to **TAG**; and
 - (b) twenty percent (20%) to **GoSL**.

15. OBLIGATIONS OF PARTIES

15.1 **GoSL's Obligations**

GoSL shall –

- (a) provide and handover physical possession of the Project Site free from all encumbrances, claims, and disputes of any nature for the Project at no cost to **TAG**, within 2 months of the execution of this Agreement, and fully indemnify **TAG** in the event of any interference with or successful challenge of the title of the Project Site;
- (b) value the land referred to in sub-clause 15.1 (a) which shall constitute part of **GoSL's** equity contribution to the Project;
- (c) issue title documents to the SPV in respect of the Project Site within a period not more than three (3) months after the incorporation of the SPV;
- (d) provide the infrastructure necessary for **TAG** to freely access the land which infrastructure shall be valued as part of **GoSL's** equity contribution to the Project;
- (e) secure the cooperation of all government entities and manage all socio-political/communal issues arising from the implementation of the Project including stakeholders' consultations;
- (f) guarantee non-interference in the management and operations of the Project by the SPV unless otherwise agreed by the Parties;



- (g) Facilitate and use its best endeavour to ensure that TAG obtains all permits, approvals, licenses, and consents from any governmental authorities required by regulatory bodies in the Country for the execution of the Project including but not limited to building and zoning permits, importation of project equipment, and work permit for expatriates of TAG necessary for the execution of the Project; and waive all or any fees connected thereto.
- (h) make rules and regulations (where appropriate) to ensure that an appropriate legal and regulatory framework is created for the implementation of the Project;
- (i) provide an enabling environment for the security of lives of persons, equipment, and property of persons on the Project Site throughout the implementation of this JVA; and
- (j) handle necessary immigration issues as it affects TAG as well as other parties deemed necessary for the execution of the Project.

15.2 TAG'S Obligations:

TAG shall-

- (a) provide financing for the Project;
- (b) accept the agreed Project Site provided by GoSL to implement the Project if adjudged suitable for the Project by TAG;
- (c) plan, design, implement and execute the Project;
- (d) establish, manage and operate the construction of the Project from the date of the receipt of the Certificate of Commencement;
- (e) secure funding for the execution of the Project.;
- (f) use its best endeavour to maximise the financial, geographical, and design criteria to obtain a minimum cost per unit of development that is commensurate with the design and quality that shall meet the agreed requirement needs of the Project;
- (g) prepare and submit a feasibility report indicating technical and operational practicability, financial and economic analysis, commercial viability, and breakdown costs of the Project;
- (h) prepare as part of the feasibility studies, Environmental and Social Impact Assessments;
- (i) upon the execution of this JVA, execute definitive agreements with GoSL and the SPV for the implementation of the Project;
- (j) establish, manage and operate the construction of the Project for the duration of the Project on an Engineering, Procurement, and Construction basis;

- (k) upon the execution of a JVA, execute a Shareholders' Agreement, EPC, and Operations and Management Agreements with relevant parties and incorporate an SPV for the implementation of the Project
- (l) employ and use local resources, reasonably, for the Project and train the locally-hired labour force so that they can be equipped with necessary technical and professional skills in accordance with the Local Content Act; and
- (m) employ relevant skilled and unskilled citizens of Sierra Leone in the execution of the Project.

15.3 General Obligations of the Parties

15.3.1 Compliance with laws and regulations

Parties shall at all times observe and comply with all relevant laws and regulations of the Government in the performance of their obligations under this JVA.

15.3.2 Co-operation

Parties shall cooperate with each other and with the local and governmental authorities, including the police, firefighters, and other public agencies in the performance of their respective obligations under this JVA.

15.3.3 No Interruption by GoSL

Subject to the provisions of this JVA-

- (a) **GoSL** undertakes not to do anything which would materially prevent or adversely affect the Project; and
- (b) where any operation, action, or interruption by **GoSL** delays the completion of the Project, **TAG** shall notify **GoSL** within fourteen (14) days and **GoSL** shall take appropriate steps to shorten the delay, and the target construction completion period shall be extended by a period not less than the exact period of time the delays lasted for, or such other period as may be mutually agreed upon by the Parties.

15.3.4 Environmental Protection

In the performance of their obligations under this JVA-

- (a) **TAG** shall take all reasonable steps to ensure that appropriate pollution control and other environmental protection measures are taken in accordance with the applicable laws or regulations; and
- (b) **GoSL** shall grant environmental permits and approvals as required for the execution of the Project.

15.3.5 GoSL may enter the site



GoSL or any designated representative thereof may from time to time enter any part of the site in order to-

- (a) ascertain whether the construction works are liable to become unsafe or dangerous; or
- (b) observe tests of materials, equipment or plant carried out under the supervision of **TAG**.

15.3.6 Safety and Security on site

To ensure safety and security on the Project site, **TAG** shall-

- (a) ensure that its operations on the Project Site comply with applicable health and safety standards and practices; and
- (b) ensure that all necessary security measures on-site, including measures to exclude unauthorized access to the construction works, are undertaken.

15.3.7 Taxes

Except otherwise agreed by Parties and as incentives for the execution of this Project, **TAG** shall be granted exemptions from corporate income and import duty on plant machinery, equipment and other inputs throughout the life of the project, excluding petroleum products as contained in Section 23 of the Finance Act, 2011.

TAG is only obliged to pay PAYE, withholding taxes on contract services, dividend, management fees, and payroll taxes.

15.3.8 Approvals

GoSL shall offer all reasonable assistance to **TAG** and shall ensure that necessary approvals are not withheld or withdrawn by any relevant authority in the Government except where **TAG** is in default of terms of the issuance of such approval. The costs of such approvals shall be borne by **TAG**.

16. CONFIDENTIALITY

16.1 Each Party shall at all times use its best endeavours to keep confidential (and to ensure that its employees, agents, subsidiaries, and the employees and agents of such subsidiaries keep confidential), any confidential information that it may acquire in relation to the SPV and its subsidiaries (if any) or related to any Party to this JVA and shall not use or disclose any such information except-

- (a) to another member of **TAG** or to a Party's professional advisers where such disclosure is for a purpose related to the operation of this JV;
- (b) with the written consent of such member of the SPV or the Party that the information may relate to;

- (c) as may be required by law or by the rules or governmental or other regulatory body, when the Party concerned shall (if applicable), supply a copy of the required disclosure to the other Party before it is disclosed and incorporate any amendments or additions reasonably requested by the other Party;
 - (d) where it relates to the SPV or any of its subsidiaries (if any) *bona fide* for the advancement of the business of the SPV or its subsidiaries; or
 - (e) where it has come into the public domain otherwise than by the breach of this clause.
- 16.2 Parties shall use their best endeavours to ensure that the SPV and their officers, employees, and agents observe a corresponding obligation of confidence in respect of information about the Parties themselves.
- 16.3 The obligations of each of the Parties in this Clause 16 shall continue without limit in time and notwithstanding the termination of this JVA.
- 17. MATERIALLY ADVERSE GOVERNMENT ACTION, FORCE MAJEURE, AND HARDSHIP**
- 17.1 **Materially Adverse Government Action**
- 17.1.1 Upon the execution of this JVA, a Materially Adverse Government Action shall be any act or omission by **GoSL** or any relevant authority which causes a materially adverse effect on the Project or otherwise on the economic position of **TAG** or its sub-contractors.
- 17.1.2 Materially Adverse Government Action shall include but shall not be limited to-
- (a) the expropriation, requisition, confiscation, or nationalization of the Project or any part thereof;
 - (b) the imposition of any blockade, embargo, rationing, or allocation;
 - (c) the introduction or application of any law, decree, or regulation (including any tax, environmental, or import regulation), the grant of any subsidies to other competing means which would affect **TAG**, the principal effect of which is directly or indirectly borne by **TAG** or by its sub-contractors and only incidentally by other persons;
 - (d) The unilateral termination of this Agreement by the **GoSL** prior to the completion of the Project; save for clause 12 in this agreement and
 - (e) the unreasonable refusal to grant or the withdrawal of any approval necessary for **TAG** or its sub-contractors to complete the Project.
- 17.1.3 In the event that any Materially Adverse Government Action occurs, **TAG** shall as soon as practicable after becoming aware of the same, give notice to **GoSL** specifying the action complained of and the likely consequences to its partners or its sub-contractors.

- 17.1.4 Where **TAG** has given such notice, **TAG** shall not be liable and **GoSL** shall not be entitled to terminate this JVA for any delay or failure by **TAG** in the performance of any of the obligations under this JVA to the extent that such performance is prevented by the Materially Adverse Government Action.
- 17.1.5 Within thirty (30) days of receipt of such notice, **GoSL** shall remedy the Materially Adverse Government Action and restore **TAG** or its sub-contractors to the position they would have been in had such action not occurred.
- 17.1.6 Where **GoSL** does not remedy the Materially Adverse Government Action after the expiry of the thirty (30) days period, at the invitation of **TAG**, the Parties shall consult each other in order to reach a mutually satisfactory solution to restore **TAG** or its sub-contractors to the position they would have been in had such action not occurred.
- 17.1.7 Where the Parties fail to reach a mutually satisfactory solution within ninety (90) days of the commencement of such discussions, the **TAG** may issue a Notice of Intention to Terminate and **GoSL** shall pay all costs incurred by the **TAG**, fully refund all investments already made plus damages which shall not be less than 50% of all cost incurred and investments made.

17.2 Force Majeure

17.2.1 Force Majeure Events

Force majeure means any event or circumstance, other than Materially Adverse Government Action, which is beyond the control of the party seeking to rely on such *force majeure*, including but not limited to-

- (a) such unforeseen events such as natural disasters, war and other hostilities (whether war to be declared or not), invasion, the act of foreign enemies, mobilization, requisition or embargo in the Government, acts of Government and the act of God;
- (b) ionizing radiation or contamination by radio-activity from any nuclear fuel or any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosives, or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;
- (c) rebellion, revolution, insurrection, military or usurped power and civil war; and
- (d) extreme weather conditions for more than ninety (90) days.

17.2.2 Such event which could not reasonably have been foreseen by that Party or its sub-contractors at the date of this JVA, the consequences of which could not reasonably have been avoided by that Party, and which prevents that Party from carrying out any of its obligations under this JVA.

17.2.3 Notice of force majeure

Any Party claiming to be affected by *force majeure* shall, as soon as practicable after becoming aware of the *force majeure*, give notice to the other Party describing in detail the effects of such *force majeure*, including the dates of commencement and estimated end.

17.2.4 Suspension of performance due to *force majeure* and costs

Provided that the notice procedure under clause 17.1.3 is satisfied, the Party claiming to be affected by *force majeure* shall not be liable, and subject to clauses 18.2.8 and 18.2.9 the other Party shall not be entitled to terminate this JVA for any delay or failure in the performance of any of its obligations under this JVA to the extent that such performance is prevented by *force majeure*.

17.2.5 Save as may subsequently be agreed between the Parties pursuant to clauses 17.2.8, 17.2.9, and 17.2.10, each Party shall bear its own costs resulting from *force majeure*.

17.2.6 Duty to mitigate and resume

Parties in consultation with each other shall use reasonable efforts to mitigate the effects of any *force majeure* event, including the payment of reasonable sums based on the likely efficacy of such measures.

17.2.7 The Party claiming *force majeure* shall resume the performance of its obligations under this JVA as soon as possible after the *force majeure* no longer exists.

17.2.8 Continuing *force majeure*

Where any event of *force majeure* continues for longer than ninety (90) days, the Parties shall agree on a mutually satisfactory solution to continue the performance of this JVA.

17.2.9 Where Parties fail to reach a mutually satisfactory solution within ninety (90) days of the commencement of the discussion contemplated in clause 18.2.8, either Party may issue a Notice of Intention to Terminate.

17.2.10 *Force majeure* and Insurance

To the extent that the consequences of an event of *force majeure* relied upon by the **Developer** fall within the terms of the insurance cover required, the **Developer** shall forthwith make appropriate claims thereunder and shall apply the proceeds as required in this Agreement.

17.3 Hardship

17.3.1 The rights and obligations of the Parties set out in this JVA, represent the Parties' positions relative to each other on the basis of the circumstances existing at the date hereof and on the basis of the common view, the Parties have of the way those circumstances shall develop until the end of the contractual period.

- 17.3.2 Parties agree and acknowledge that neither of the Parties shall seek to benefit unduly from any unforeseen development of circumstances that actually occurs.
- 17.3.3 Where after the date of execution of this JVA, a change of circumstances occurs which is beyond the control of each Party (which does not constitute either Materially Adverse Government Action or *force majeure*), which could not have been foreseen by either Party at the date hereof and which shall over the term of the development period materially upset the economic balance of this JVA such as it exists at the date hereof, the Parties shall upon notice given by either of them, enter into discussions to agree on the measures necessary to restore that economic balance.
- 17.3.4 Where the Parties fail to reach a mutual solution within ninety (90) days of the commencement of such discussions, either Party may issue a Notice of Intention to Terminate.

18. GUARANTEE

- 18.1 GoSL guarantees that the Project Site is free from any encumbrance.
- 18.2 In the event of any defect in its title or a successful third-party claim in the Project Site, GoSL shall fully indemnify TAG of all claims, costs, interference, losses, liabilities, and expenses suffered or incurred by TAG as a result of either defect in title or third-party rights over the Project Site such that TAG would be in a position it would have been in the absence of a defect in title, interference or successful rival claim over the Project Site.

19. TERMINATION AND LIQUIDATION

- 19.1 Subject to the Shareholders' Agreement between the Parties and a deadlock provision to be contained in the constitutional documents of the SPV and unless the Parties agree otherwise, the SPV shall terminate and be wound up when TAG completes the Project, recovers its investment, and profits in the Project, as defined by TAG's Construction Plan or when the Parties mutually agree to terminate this JVA.
- 19.2 Termination of this JVA shall be without prejudice to the accrued rights of either Party prior to such termination.
- 19.3 The parties may terminate this Contract, by giving not less than Ninety (90) days' written notice of termination, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (e) as follows:
- (a) if the parties fail to remedy a failure in the performance of their obligations under the Contract, within Ninety (90) days of receipt of such notice of suspension, or within such further period as the parties may have subsequently approved in writing;
 - (b) if TAG fails to comply with Clause 12 to this Agreement;
 - (c) if any of the party becomes insolvent or bankrupt or enters into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

- (d) if any of the party fails to comply with any final decision reached as a result of arbitration proceedings;
- (e) if TAG, through the judgment of a court of competent jurisdiction, has engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purpose of this clause:
 - (i) "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the selection process or contract execution.
 - (ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract to the detriment of the Government of Sierra Leone;
 - (iii) "collusive practices" means a scheme or arrangement between two or more bidders with or without the knowledge of the Purchaser, designed to establish prices at artificial, non-competitive levels;
 - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

19.4 Upon winding up, the Parties shall endeavour to agree on a suitable basis for dealing with the interests and assets of the SPV and shall endeavour to ensure that-

- (a) all existing contracts of the SPV are performed so far as resources permit;
- (b) no new contractual obligations shall be entered into by the SPV;
- (c) the SPV shall be wound up as soon as practicable; and
- (d) each Party shall return to the other Party and both Parties shall ensure that the SPV shall return all proprietary information to the Party such information originates from.

19.5 Where the term created under clause 4.1 of this JVA is not renewed, the SPV shall be wound up only after the Developer has recovered its investments and agreed margin.

20. WARRANTIES, ENTIRE AGREEMENT

20.1 Parties respectively warrant and represent that they have valid and lawful authority to enter into this JVA.

20.2 This JVA constitutes the entire and only agreement between the Parties in relation to its matter and supersedes and extinguishes all prior agreements, undertakings, arrangements, understandings, or Government of any nature made by the Parties or any of them whether oral or written (and if written, whether or not in draft form) with respect to such subject matter.

20.3 Each of the Parties acknowledges that it is not relying on any Government, warranties, or representations given or made by any of them in relation to the subject matter hereof, save those expressly set out in this JVA, and that it shall have no rights or remedies with respect to such subject matter otherwise than under this JVA save to the extent that they arise out of the fraud or fraudulent misrepresentation of the other Party.

20.4 No variation of this JVA shall be effective unless in writing and signed by or on behalf of a duly authorized representative of each Party.

21. AGENCY

The Parties hereby agree that this JVA is not intended to establish a partnership nor are the Parties agents of each other under this JVA unless to the extent explicitly agreed herein.

22. ASSIGNMENTS

22.1 This JVA shall be binding on the Parties and their respective successors-in-title and assigns.

22.2 Neither of the Parties shall be entitled to assign this JVA or any of its rights and obligations under it without the prior written consent of the non-assigning Party.

23. WAIVER OF RIGHTS, COMPROMISES

23.1 No exercise or failure to exercise or delay by either Party in exercising any right, power, or remedy under this JVA shall constitute a waiver by that Party of any such other right, power, or remedy.

23.2 Either Party may release or compromise the liability of the other or grant to such Party, time to remedy or another indulgence without affecting its rights in relation to the other Party.

24. SEVERABILITY

Each of the provisions of this JVA is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal, or unenforceable, the validity, legality, and enforceability of other provisions of this JVA shall not in any way be affected or impaired.

25. COSTS OF JVA

Each Party shall bear its own costs in connection with the preparation and execution of this JVA.

26. GOOD FAITH

26.1 Each Party shall at all times act in good faith towards the other Party and shall use all reasonable endeavours to ensure that this JVA is observed.

26.2 Each Party shall do all things necessary or desirable to give effect to the spirit and intention of this JVA.

27. DISPUTE RESOLUTION

27.1 In the event of any dispute arising under this JVA, the Party alleging the dispute shall provide a written Notice of Negotiation within fourteen (14) days of the alleged dispute, giving particulars of the dispute to the other Party.

- 27.2 The Parties shall appoint a representative each and cause them to meet, no later than four (4) days, in an effort to resolve the dispute by negotiation.
- 27.3 In the event parties fail to settle any of the disputes arising out or in connection with this agreement (including non-contractual disputes or claims) such disputes shall be settled in accordance with the Rules of Arbitration of the United Nations Commission on International Trade Law (UNCITRAL Rules) by an arbitrator appointed in accordance with the UNCITRAL Rules. The UNCITRAL Rules in force at the time shall govern the procedure before the arbitrator.
- 27.4 Any dispute arising out of or in connection with this Agreement, the Parties shall submit and finally resolve the dispute by arbitration pursuant to the rules of the International Chamber of Commerce (ICC). The number of arbitrators shall be three. Each party nominates one arbitrator each and the third arbitrator is to be agreed upon by both parties according to the ICC rules. If the parties fail to agree on the third arbitrator, one shall be appointed in accordance with the ICC Rules by the head of the leading internationally recognized arbitration institution in Sierra Leone.
- 27.5 Unless the Parties otherwise agree, no arbitrator appointed pursuant to this Section shall be a national of the jurisdiction of either Party or of the jurisdiction of any Investor that directly or beneficially owns five percent (5%) or more of the Ordinary Share Capital, nor may any such arbitrator be an employee or agent or former employee or agent or investor or former investor or beneficiary of either Party, the Lenders or any Investor that directly or beneficially owns five percent (5%) or more of the Ordinary Share Capital.
- 27.6 The governing law shall be the law of the contract. The seat of the arbitration shall be Freetown, Sierra Leone. The language of the arbitration proceedings shall be English. The arbitration proceedings shall be confidential and not disclosed to the public and the arbitration award shall be binding and final.
- 27.7 Any arbitral award rendered in accordance with the UNCITRAL Rules shall be final and binding on the Parties and any Governmental Authority

28. GOVERNING LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) may be governed by and construed in accordance with the laws of Sierra Leone.

29. NOTICES

- 29.1 Any notice, instructions, information, document, or process required or authorized to be sent or served pursuant to this JVA or as a result thereof by either of the Parties to the other may be given verbally on the phone to the other Party to whom the notice is directed where time is of the utmost essence but in any other circumstance, such notice may be in writing, given by hand or sent by tested courier service, e-mail, facsimile transmission or other comparable means of communication to the other Party's address as follows-

<u>If to GoSL</u>	<u>If to TAG</u>
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<p><u>The Government of Sierra Leone,</u> 3rd Floor, Youyi Building, Brookfields, Freetown, Sierra Leone, Mobile: +232-76565650 Attention: The Minister of Lands & Country Planning. Email Address: <u>turadsenesie@njala.eddu.sl</u></p>	<p><u>TAF Africa Global Limited,</u> 17-19 Kaira Avenue, Second Floor, Madiba Mall, Brufut Gardens Government, P.O. Box 121, The Gambia Mobile: 08065343315 Attention: Mr. Mustapha Njie Email Address: <u>mnjie@tafricaglobal.com</u></p>
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29.2 Any Party may at any time appoint one or more other authorized agents for the receipt of notices and communicate any change of address to the other Parties.

30. COUNTERPART

This JVA may be executed by each Party in separate counterparts, each of which may be an original but all of which may together constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this JVA in the manner below the day and year first above written.

SIGNED, SEALED, AND DELIVERED for and on behalf of the **GOVERNMENT OF SIERRA LEONE:**



AUTHORISED SIGNATORY

NAME: Dr. Turad Senesie

DESIGNATION: Minister of Lands, Housing and Country Planning

IN THE PRESENCE OF:

NAME Abdul R. M. Jafarrah

DESIGNATION Permanent Secretary

ADDRESS Ministry of Lands, Housing & Country Planning

SIGNATURE [Signature]

DATE 31-01-2023

THE COMMON SEAL of the within named TAF AFRICA GLOBAL LIMITED

was hereunto affixed in the presence of:

[Signature]

AUTHORISED SIGNATORY

NAME: **Mr. Mustapha Njie**

DESIGNATION: **Managing Director/Chief Executive Officer**



IN THE PRESENCE OF:

NAME Lucy Petia M. Sheeef

DESIGNATION The High Commissioner

ADDRESS Serra Leone High Commission

SIGNATURE [Signature]

DATE 31/1/2023

