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Tax Incentives Agreement

Dated ¹¹8 Sept 2011

The Government of Sierra Leone
(GoSL)

Addax Bioenergy (SL) Limited
(ABSL)

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Tax Agreement

Dated

2011

Between

- (1) **The Government of Sierra Leone** acting by the Minister of Finance & Economic Development (GoSL), and
- (2) **Addax Bioenergy (SL) Limited (ABSL)** a limited liability company incorporated and registered under the laws of the Republic of Sierra Leone with company number C/F/576/2008 whose registered office is at 4 Liverpool Street, Freetown Sierra Leone;

Recitals

- A ABSL was established to develop and run the Makeni Project (as defined).
- B In reliance on the agreement of GoSL in the Memorandum (as defined) to provide various investment and tax incentives for the Makeni Project, ABSL has agreed to develop and run the Makeni Project.
- C By this Agreement, which is derived from the Memorandum, ABSL and GoSL set out their rights and obligations in connection with the Makeni Project.

It is agreed:

1 Definitions and interpretation

1.1 Definitions

In this Agreement, the following definitions apply:

Addax Energy SA means the Addax group trading company, Addax Energy SA, a company incorporated in Switzerland, with registered number CH66002269864, whose registered office is at 12, Rue Michel-Servet, 1200 Geneva, Switzerland

Affiliated Company means in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

Agricultural Inputs means all seeds, plants, fertilizers and agricultural materials relevant to crop cultivation.

applicable fiscal period means the period of twelve months ending on 31 December, or such other period of assessment for corporate tax as may be provided for in the Income Tax Act, 2000.

capital assets means assets other than trading assets.

Competent Authorities means the GoSL and any body which is responsible for or otherwise concerned in the implementation of GoSL's obligations under in this Agreement including, without limitation, local councils, statutory bodies, Customs, the National Revenue Authority and any authority with the power to issue Permits.

Complex is defined in the PPA



Consultant means any member of the professional team appointed by the Contractor directly or appointed by or on behalf of ABSL and any substitute consultant, its or their successors, duly permitted assigns or transferees.

Contractor means any contractor appointed by or on behalf of ABSL and any substitute contractor, its or their successors, duly permitted assigns or transferees.

Corporate tax means tax payable by a resident company under the Income Tax Act, 2000.

Date of Commencement of Commercial Operations means 1 November 2012, or any other date ABSL shall notify GoSL.

Excepted Assets are defined in the PPA.

Funders means those banks and financial institutions listed in Schedule 1 Part B, together with any other banks or financial institutions, and their respective successors in title, transferees and assignees, which are providing funding to the Makeni Project from time to time (whether as lender or equipment lessor).

Funding Documents means any document under which any funding, hedging, guarantee or other financial support of whatever nature is or is to be made available to ABSL or equipment lease to ABSL in connection with the Makeni Project (or any of it).

Goods and Services Tax is a Tax under this Agreement and means any tax imposed under the Goods and Services Tax Act, 2009.

Holding Company means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

Law means legislation, common or customary law, enactments, ordinances, statutes, rules, orders, decrees, injunctions, treaties, international agreements and regulations in the Republic of Sierra Leone, including the constitution of the Republic of Sierra Leone and any all Permits and any directive, request, requirement, guidance or guideline (in each case, whether or not having the force of law but, if not having the force of law, compliance with which is in accordance with the general practice of persons to whom the directive, request, requirement, guidance or guideline is addressed).

Makeni Project means:

- (a) the cultivation and processing of sugar cane by, for or on behalf of ABSL; and
- (b) the design, development, procurement, construction, testing, commissioning, management, operation, maintenance and repair of ethanol and power production and ancillary facilities by, for or on behalf of ABSL, including the Complex.

Marketing Fees means any fees paid by ABSL under the off-take and marketing agreement which is to be entered into between ABSL and Addax Energy SA.

Memorandum means a Memorandum of Understanding and Agreement that was ratified by the parliament of the Republic of Sierra Leone on 9 November 2010.

New York Convention means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which came into force on 7 June 1959.

Operating Committee is defined in the PPA.

Overhead Allocation means direct head office costs and management fees that could be demonstrated to the reasonable satisfaction of GoSL to be properly incurred for the purpose or benefit of ABSL's business, which for the avoidance of doubt excludes payment for goods or services provided by a third party that is not an Affiliated Company of ABSL.



Overhead Cap means in respect of applicable fiscal period, 6% of ABSL's revenues (as stated in its audited income statement).

Owning means directly or indirectly possessing or being entitled to possess ordinary share capital or voting power in a company, or rights to assets of a company in the event of it being wound up and **Own, Owned, Owner** and **Ownership** shall be construed accordingly.

Party means each of the parties to this Agreement.

Payment of Interest means an amount of monetary consideration which is paid for the use of money over time, and includes (without limitation) any such amount which is treated as a dividend for any purpose under the law of the Republic of Sierra Leone and **Payments of Interest** shall be construed accordingly.

Permit means any consent, authorisation, approval, permit and licence of any kind required to be issued by any official or public authority of the Republic of Sierra Leone in connection with ABSL, its activities, the Makeni Project or any person taking part or participating directly or indirectly in the Makeni Project (or any of it).

PPA means the power purchase agreement entered into by GoSL and ABSL dated 2011.

Project Agreements are defined in the PPA.

Project Document means any document to which ABSL is a party for the purpose of or in connection with any part of the Makeni Project.

Shareholders means those persons listed in Schedule 1 Part A, together with their respective successor in title, transferees and assignees.

Sub-contractor means any sub-contractor (of any tier) appointed by or on behalf of the Contractor and any substitute sub-contractor, its or their successors, duly permitted assigns or transferees.

Subsidiary means:

- (a) any company in respect of which another company (directly or indirectly):
 - (i) holds a majority of the voting rights;
 - (ii) is a member of and has the right to appoint or remove a majority of its board; or
 - (iii) is a member of and (under an agreement with other members) controls alone a majority of the voting rights in it; and
- (b) any company which would be a subsidiary within a) above, but for any Security subsisting over the shares in that company from time to time,

but on the basis that a person shall be treated as a member of a company if any shares in that company are held by that person's nominee or any other person acting on that person's behalf.

Tax includes all present and future taxes, charges, imposts, duties, levies, customs duties, excise, deductions or withholdings of any kind whatsoever, or any other tax or charge having the effect of a tax, or any amount payable on account of or as security for any of the foregoing, by whomsoever on whomsoever and wherever imposed, levied, collected, withheld or assessed, together with any penalties, additions, fines, surcharges or interest relating thereto and **Taxes** and **Taxation** shall be construed accordingly.



Treaty State means a jurisdiction having a double taxation agreement (a **Treaty**) with the Republic of Sierra Leone.

Washington Convention means the Convention on the Settlement of Investment Disputes between States and Nationals of other States, which came into force on 14 October 1966.

Water Extraction Licence is defined in the PPA.

withholding tax means a deduction or withholding for or on account of Tax imposed by Law.

1.2 Interpretation

In this Agreement, unless otherwise specified:

- (a) reference to any statute, bye-law, regulation, rule, delegated legislation or order is to any statute, bye-law, regulation, rule, delegated legislation or order as amended, modified or replaced from time to time and to any, statute, bye-law, regulation, rule, delegated legislation or order replacing or made under any of them;
- (b) references to any clause, paragraph or Schedule are to those contained in this Agreement and all Schedules to this Agreement are an integral part of this Agreement;
- (c) headings are for ease of reference only and shall not be taken into account in construing this Agreement;
- (d) the expression **this clause** shall unless followed by reference to a specific provision be deemed to refer to the whole clause (not merely the sub-clause, paragraph or other provision) in which the expression occurs;
- (e) references to any Project Document, any Funding Document or any other document shall be construed as references to that Project Document, that Funding Document or that other document as amended, varied, novated or supplemented in accordance with the terms thereof;
- (f) **person or entity** includes any individual, firm, company or other incorporated or unincorporated body and references to a person or entity shall be construed as to include that person's or entity's assigns, transferees or successor in title;
- (g) **in writing** includes any communication made by letter or facsimile transmission; and
- (h) **business day** means a day (not being a Saturday or Sunday) on which banks are open for normal banking business in Geneva
- (i) reference to \$ in this Agreement is to US dollars.

2 Agreement

2.1 Tax

In consideration of ABSL agreeing to develop and operate the Makeni Project, GoSL hereby irrevocably and unconditionally agrees in the terms set out in Schedule 2, and without prejudice to the foregoing, to the extent necessary to give effect to this Agreement:

- (a) to waive from 9 February 2010 for the period up to and including 31 December 2022 its rights in respect of tax insofar as they are inconsistent with the terms set out in Schedule 2;
- (b) not to seek to recover tax from ABSL, the Shareholders or the Funders insofar as such recovery would be inconsistent with the terms set out in Schedule 2; and



- (c) to use all reasonable endeavours to procure the ratification by 30 September 2011 of this Agreement.

2.2 Purpose of this Agreement

- (a) The Parties to this Agreement hereby acknowledge and agree that the exemptions from tax as set out in Schedule 2 have been provided solely for the development, operation and funding of the Makeni Project and shall not apply for any other purpose or in relation to any other activity and no term of this Agreement shall restrict or prevent the GoSL from exercising any powers it may have from time to time to investigate and ensure the exemptions are being applied in accordance with this Clause 2.2(a).
- (b) To the extent that this Agreement contradicts the Memorandum in relation to tax, this Agreement shall take precedence, but neither Party shall be entitled to recover any amount under this Agreement to the extent that it has already recovered in respect of the same liability under the Memorandum (or vice versa).

2.3 Termination

The agreements, waivers and concessions in Schedule 2 of this Agreement shall expire on 31 December 2022, but any rights which have accrued under this Agreement shall subsist after that date.

3 Representations and Warranties

GoSL represents and warrants to ABSL that each of the statements in Schedule 3 is true, accurate and not misleading.

4 General obligation to pay Tax

- 4.1 Subject to GoSL complying with its obligations under this agreement, ABSL agrees (subject to Schedule 2) to pay Tax in accordance with the Laws.

5 Records

ABSL shall maintain sufficient records of material transactions relevant to the cultivation of sugar cane on or before 31 December 2020 as kept according to international sugar company auditing standards to determine the nature and key terms of those transactions and any Tax which is (or would but for this Agreement) be payable by ABSL in relation to those transactions, and shall retain such records until 31 December 2026.

6 Notices

6.1 Notices

Except as otherwise provided for in this Agreement, all notices or other communication under or in respect of this Agreement by any Party shall be in writing.

6.2 Addresses for notices

All notices and other communications under or in respect of this Agreement shall be deemed to be duly given or made when delivered (in the case of personal delivery or letter) and when received (in the case of facsimile) to such Party addressed to it at the address stated below (or at such other address as such Party may specify for such purpose to the others by notice in writing):



- (a) in the case of GoSL:

For the attention of:

Financial Secretary
Ministry of Finance and Economic Development
Ministry of Finance
George Street
Freetown

Fax: +23222228472

Email: ekoroma@mofed.gov.sl

- (b) in the case of ABSL:

For the attention of:

Nikolai Germann
Addax Bioenergy (SL) Limited
33 Rue de la Synagogue
CH - 1211 Genève 12
Switzerland

Fax: +41 58 702 99 80

6.3 Receipt of notices

A notice or other communication received on a non-business day or after 5.00 p.m. in the place of receipt, shall be deemed to be served on the next following business day in such place.

7 Assignments

7.1 Effect of Assignments

This Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors and permitted assigns and transferees and references in this Agreement to any of them shall be construed accordingly.

7.2 By GoSL

GoSL shall not assign, transfer or novate all or any of its rights and/or obligations under this Agreement.

7.3 By ABSL

ABSL shall not assign, transfer or novate all or any of its rights and/or obligations under this Agreement other than by way of security in favour of the Funders (or any of them).

8 Miscellaneous

8.1 No waiver or discharge

No breach by any Party of any provision of this Agreement shall be waived or discharged except with the express written consent of the other Parties.



8.2 Effect of failure or delay

No failure or delay by ABSL in exercising any right, power or privilege under this Agreement shall operate as a waiver of that right, power or privilege and no single or partial exercise by it of any right, power or privilege shall preclude any further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

8.3 Rights and remedies cumulative

The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law or otherwise.

8.4 Third party rights

Each of the Shareholders, the Funders and others referred to in Appendix 2 as having the benefit of a right, entitlement, discretion or the benefit of an obligation by GoSL shall be entitled to enforce such right, entitlement, discretion or obligation under this Agreement, whether by reason of breach, misrepresentation or otherwise, notwithstanding it shall not be a signature Party to this Agreement.

8.5 Severability

If any term of this Agreement is finally declared to be invalid, the other terms shall not thereby be affected or impaired and shall continue in full force and effect. In such event, the Parties shall, in good faith, seek to negotiate valid substitute provisions which shall as nearly as possible preserve the commercial balance between them.

8.6 Counterparts

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when executed and delivered, shall constitute an original, but all the counterparts shall together constitute but one and the same instrument.

9 Governing Law and Jurisdiction

This Agreement, its interpretation and any non-contractual obligations arising from or connected with it, are governed by and construed in accordance with the laws of the Republic of Sierra Leone in force, supplemented by the rules of international law where necessary to give effect to the express provisions of this Agreement.

10 Dispute Resolution

10.1 Mutual Discussions

If any dispute or difference of any kind whatsoever shall arise between the GoSL and ABSL in connection with, or arising out of, this Agreement (save for any dispute as to the interpretation or implementation of Clauses 10.2 to 10.6 and Clause 11 hereof), the Parties shall attempt in good faith to settle such dispute in the first instance within thirty (30) Days by mutual discussions between ABSL and the GoSL which may include referring the dispute to the Operating Committee for resolution within such thirty (30) Day period.

10.2 Disputes

This clause applies to any claim, dispute, disagreement, controversy or difference of any kind between the Parties arising out of or in connection with this Agreement (a **Dispute**) and which has not been resolved following the procedures set out in Clause 10.1. That includes, without limitation, any question about the Agreement's existence, validity or termination.



10.3 Reference to arbitration

All Disputes shall be referred to and finally resolved by arbitration in London before three arbitrators under the International Centre for Settlement of Investment Disputes Convention, Regulations and Rules from time to time in force (the **ICSID Rules**), or if the Republic of Sierra Leone has ratified the New York Convention, the Rules of Arbitration of the International Chamber of Commerce from time to time in force (the **ICC Rules**). This clause incorporates the ICSID Rules or the ICC Rules, as applicable, except where they conflict with its express terms. Rule 9(5) of the ICC Rules and Rule 39 of the ICSID Rules shall not apply.

10.4 Washington Convention

GoSL acknowledges that for the purposes of the Washington Convention:

- (a) it is a Government entity; and
- (b) this Agreement is a contract which concerns an investment.

10.5 Appointing arbitrators

- (a) Each Party shall nominate an arbitrator in the Request for Arbitration or Answer as the case may be. In the event that there are multiple claimants and/or multiple respondents, all claimants and/or all respondents shall attempt to agree upon their respective appointment(s).
- (b) If such Party or multiple parties fail to nominate an arbitrator within or at the same time as serving their Request for Arbitration or Answer as the case may be, an arbitrator shall be appointed on its or their behalf by the Chairman of the ICSID Administrative Council in accordance with the ICSID Rules, or if applicable, the President of the ICC Court in accordance with the ICC Rules. In such circumstances, any existing or future nomination or confirmation of the arbitrator chosen by the party or parties on the other side of the proposed arbitration shall be unaffected.
- (c) The Parties must then seek to agree on and nominate a third arbitrator to act as Chairman within 14 days after confirmation of the second arbitrator's appointment. Failing agreement between the parties the two arbitrators already appointed must within 14 days nominate the third arbitrator. If any of the parties fail to nominate an arbitrator or the two arbitrators already appointed fail to nominate the Chairman, the appointments shall be made by the Chairman of the ICSID Administrative Council in accordance with the ICSID Rules, or if applicable, the President of the ICC Court of Arbitration in accordance with the ICC Rules.

10.6 Language

The proceedings shall be conducted in the English language. All documents submitted in the arbitration shall be in the English language or, if in another language, be accompanied by a certified English translation.

10.7 No appeal

None of the parties may appeal to any court on a question of law arising out of an award made in the arbitration. The parties irrevocably waive any rights of appeal they might otherwise have had.

10.8 Enforcement

- 10.8.1 The award shall be final and binding on the parties or anyone claiming through or under them and judgment rendered on the award may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be.



10.8.2 ABSL irrevocably and unconditionally agrees it shall not be entitled to, and shall not, take any action to enforce a judgment or arbitral award against any bank account held by GoSL (including any of its diplomatic or consular missions) within a period of 45 days from the date of such judgment or award or such longer period granted to GoSL in the judgment or award to meet the same.

10.9 Related Disputes

- (a) If more than one arbitration is commenced under this Agreement and any separate agreements related to this contract (**Related Agreements**) and any Party contends that two or more arbitrations are substantially related and/or involve the same parties and that the issues should be heard in one proceeding, the Arbitral Tribunal appointed in the first-filed of such proceedings shall have the power to determine whether, in the interests of justice and efficiency, the whole or part of the matters at issue should be consolidated before that Arbitral Tribunal upon such terms or conditions as the Arbitral Tribunal thinks fit.
- (b) The Related Agreements shall include (but are not limited to) the Project Agreements, this Agreement, and the Water Extraction Licence.
- (c) The Parties expressly accept that any Dispute under this Agreement may accordingly be disposed of in the same arbitration proceedings as any other dispute arising under another Related Agreement, even in the presence of parties other than the Parties to this Agreement.

10.10 Continuing obligations

Unless this Agreement is already terminated, the Parties shall continue to comply with their obligations under this Agreement regardless of the nature of the dispute and notwithstanding the referral of the dispute to arbitration pursuant to this Clause 10.

10.11 Service of process

With respect to any proceedings for enforcement of an award pursuant to this Clause 10 against assets of either Party brought in the courts of the Republic of Sierra Leone, the Parties agree that service of process in any such action or proceeding may be effected in any manner permitted by the law applicable to the aforementioned court.

11 Waiver of immunity

11.1 The GoSL unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement and those agreements included in the Project Agreements to which it is a Party constitute private and commercial acts rather than public or governmental acts;
- (b) agrees that, should any proceedings be brought against it or its assets other than assets protected by the diplomatic and consular privileges in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity from such proceedings shall be claimed by or on behalf of itself or with respect to its assets (other than Excepted Assets);
- (c) waives any requirement under the State Proceedings Act, 2000 for a claimant under this Agreement to give prior notice before bringing a claim against GoSL;
- (d) consents generally in respect of the enforcement of any arbitral award (whether by judgment or otherwise) against it in any such proceedings in any jurisdiction and to the giving of any relief or the issue of any process in connection with such proceedings



- ~ (including the making, enforcement or execution against or in respect of any property other than Excepted Assets whatsoever irrespective of its use or intended use;
- (e) consents generally to the jurisdiction, with respect to itself and any and all of its assets and property that it now has or may hereafter acquire, of any court of competent jurisdiction for any action filed by ABSL to enforce any arbitral award or decision made pursuant to arbitration conducted in accordance with Clauses 10.2 to 10.7;
 - (f) waives any objection that it may now or hereafter have to the venue of any action or proceeding brought as consented to in this Clause 11.1 and specifically waives any objection that any such action or proceeding has been brought in an inconvenient forum and agrees not to plead or claim the same;
 - (g) agrees that service of process in any such action or proceeding may be effected in any manner permitted by the law applicable to the aforementioned court, or in the manner specified in Clause 10.10; and
 - (h) waives any and all rights it may have to enforce any judgment or claim against the Excepted Assets in the courts of any jurisdiction.

11.2 For the avoidance of doubt, any dispute or difference between the Parties as to whether either Party has complied with this Clause 11 shall be referred to for determination under Clauses 10.2 to 10.7.

12 Change in law

If any Law comes into effect or is amended, modified, repealed, withdrawn or replaced (a **Change in Law**) which has a material adverse effect on the Tax position of ABSL, its Contractors, Sub-contractors, any Shareholder or Funder in relation to the performance of their obligations under any document relating to the Makeni Project, or the funding of the Makeni Project and the cost of or return from so doing (after taking into account any benefits associated directly and expressly with any such Change in Law), then:

- (a) GoSL undertakes to grant to the Makeni Project, ABSL, its contractors, sub-contractors, the Shareholders and the Funders any exemption or authorisation necessary or desirable to ensure that such material adverse effect does not occur or is reversed to put the relevant person in the position they would have been had the Change in Law not happened; and
- (b) if there is a dispute as to whether the Change in Law has had a material adverse effect, it shall be referred to the arbitration procedure set out in clause 10 of this Agreement.



Schedule 1– Shareholders and Funders

Part A – Shareholders

Swedfund International AB

Nederlandse Financierings Maatschappij voor Ontwikkelingslanden NV.

Addax & Oryx Holdings BV

Addax Bioenergy SA

Mr Vincent Kanu

Part B – Funders

African Development Bank (AfDB)

Deutsche Investitions -und Entwicklungsgesellschaft mbH (DEG)

Emerging Africa Infrastructure Fund Limited (EAIF)

ICF Debt Pool LLP

Nederlandse Financierings Maatschappij voor Ontwikkelingslanden NV (FMO)

Industrial Development Corporation (IDC)

Belgian Investment Company for Developing Countries (BIO)



Schedule 2 – Tax agreements, waivers and concessions

1.	Expatriates	<p>(a) The directors, Consultants and employees of ABSL, its Contractors, and their respective Sub-contractors (and the children, dependants, spouses and civil partners of each of the foregoing) shall be entitled to bring into or import, and to export following or in anticipation of the ending of their period of residence or work such personal and household effects (including one vehicle per family) in connection with the same and for any of the same to be promptly processed through the port of entry or exit, including any customs procedures, free of all Taxes (other than any prevailing ECOWAS tax which is currently set at 0.5% of the value of the applicable goods).</p> <p>(b) If any personal or household effect brought into the country by a person free of Taxes under (a) is subsequently sold within the Republic of Sierra Leone by that person, GoSL may then recover from the buyer of such personal or household effect such Tax that would have been payable on import had the provisions of (a) not applied provided that the seller of such personal or household effect shall notify the GoSL in writing of the identity of the buyer and the amount or value of the consideration received for the sale of that personal or household effect.</p> <p>(c) For the avoidance of doubt all other goods which are imported or exported by the directors, Consultants and employees of ABSL, its Contractors, and their respective Sub-contractors (and the children, dependants, spouses and civil partners of each of the foregoing) and which do not fall under (a) shall be subject to such Taxes as are applicable from time to time under the Law of the Republic of Sierra Leone and such administrative practises as are adopted by the GoSL for the processing of such goods.</p>
2.	Import and export of equipment and materials	<p>(a) The import of all or any Agricultural Inputs for use in connection with the Makeni Project shall not be subject to any Tax whatsoever.</p> <p>(b) GOSL agrees that any plant, machinery or equipment which is not Agricultural Inputs and which is required for use in connection with the Makeni Project is eligible for import free of any Tax during a continuous five-year period which ABSL shall elect and notify GoSL in writing.</p> <p>(c) If any plant, machinery or equipment which is not Agricultural Inputs brought into the Republic of Sierra Leone free of Taxes under (b) is subsequently sold within the Republic of Sierra Leone by that person prior to the expiry of the continuous five-year period referred to under (b), GoSL may then recover from the buyer of such plant, machinery or equipment such Tax that would have been payable on import had the provisions of (b) not applied provided that the seller of such plant, machinery or equipment shall notify the GoSL in writing of the identity of the buyer and the amount or value of the consideration received for the sale of that plant, machinery or equipment.</p>
3.	Withholding tax	<p>(a) Payments of Interest in connection with the Makeni Project made by ABSL to African Development Bank (AFDB) shall not be taxable at source in the Republic of Sierra Leone.</p> <p>(b) Payments of Interest in connection with the Makeni Project made by ABSL to any Funder (other than AFDB) shall not be taxable at source in the Republic of Sierra Leone provided that 20 per cent or more of such Funder (i) is Owned by a foreign Government or Governments (including any governmental, quasi governmental, or other regulatory department, body, instrumentality, agency, or authority of a Government or of any sub-division thereof) and (ii)</p>



		<p>has as one of its primary objectives as mentioned in its articles of association, relevant national legislation or other governing document, the provision of development finance in emerging markets (Other Qualifying Lender). GoSL confirms that, for the purposes of this paragraph 3(b) of Schedule 2, each of the original Lenders (i.e. FMO, EAI, DEG, AfDB, BIO, IDC and ICF Debt Pool) shall be treated as an Other Qualifying Lender.</p> <p>(c) Payments of Interest made in connection with the Makeni Project by ABSL to a person other than AFDB or any Other Qualifying Lender may be taxed at source in the Republic of Sierra Leone but the Tax so charged shall not exceed 5 per cent of the gross amount of the Payment of Interest.</p> <p>(d) 50 per cent of each gross dividend payment (which shall not include any Payment of Interest) made by ABSL on or before 31 December 2020 shall not be taxable at source in the Republic of Sierra Leone. The other 50 per cent of each gross dividend payment made by ABSL on or before 31 December 2020 may be taxed at source in the Republic of Sierra Leone but the Tax so charged shall not exceed 10 per cent of the gross amount of that part of the dividend.</p> <p>(e) Subject to compliance with Clause 5 of this Agreement, dividend payments (which shall not include any Payment of Interest) made by ABSL on or after 1 January 2021 may be taxed at source in the Republic of Sierra Leone but the Tax so charged shall not exceed 10 per cent of the gross amount of the dividend.</p> <p>(f) Payments by ABSL of Marketing Fees in connection with the Makeni Project not exceeding 5 per cent of ethanol sales (as stated in ABSL's audited income statement) will not be taxable at source in the Republic of Sierra Leone. To the extent that the Marketing Fees exceed 5 per cent of ethanol sales, they will be treated, for the purposes of this Agreement, as a dividend payment subject to the provisions of paragraphs 3(d) and (e) of this Schedule 2.</p> <p>(g) Any payment of Overhead Allocation in connection with the Makeni Project made by ABSL on or before 31 December 2014 and any payment of Overhead Allocation in connection with the Makeni Project made on or after 1 January 2015 and which does not exceed the Overhead Cap will not be subject to tax at source in the Republic of Sierra Leone, as long as in respect of that payment: i) invoices have been submitted and set out in a schedule of expenses verified by independent auditors; and ii) the audited schedule has been approved by the board of directors of ABSL. Any payment of Overhead Allocation in connection with the Makeni Project made on or after 1 January 2015 will only be subject to tax at source in the Republic of Sierra Leone at the applicable rate, to the extent such payment exceeds the Overhead Cap.</p> <p>(h) Payments of rent made by ABSL in connection with any lease in respect of land used in connection with the Makeni Project or payments in connection with the Makeni Project made by ABSL for any other right, interest or estate in land shall not be taxable at source in the Republic of Sierra Leone.</p> <p>(i) Other payments made by ABSL in the course of its business in connection with the Makeni Project shall not be taxable at source in the Republic of Sierra Leone under Part XV of the Income Tax Act, 2000 (Withholding tax at source) other than as specifically provided in this Agreement. Any payments falling within this paragraph 3(i) which are in excess of \$20,000 and which are made to any person who is resident for tax purposes in the Republic of Sierra Leone shall be notified in writing to the GoSL, such notification identifying the recipient of the relevant payment and the amount of that</p>
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		<p>payment.</p> <p>(j) To the extent that ABSL makes a payment to a person who is resident in a Treaty State where that payment would be subject to tax at source, GoSL shall promptly use its reasonable endeavours to ensure that ABSL can make such payments with no or a reduced rate of tax at source as provided under the relevant Treaty.</p>
4.	Corporate tax	<p>(a) ABSL shall be entitled to an exemption from corporate tax on income from the Makeni Project received or accrued on or before 31 December 2022.</p> <p>(b) ABSL shall not be entitled to carry forward beyond 31 December 2022 any losses in connection with the Makeni Project which it realised before that date and, for the avoidance of doubt, ABSL will be entitled to carry forward losses incurred after that date in accordance with the general principles of Tax law of the Republic of Sierra Leone.</p> <p>(c) To the extent not otherwise contradicted by a provision of this Agreement, any bona fide business payment made by ABSL in connection with the Makeni Project shall be deductible for corporate tax purposes. For the avoidance of doubt, such payments shall include (without limitation): i) Payments of Interest (or amounts equivalent to interest) made in connection with the Makeni Project and ii) payments of rent made by ABSL in connection with any lease in respect of land used in connection with the Makeni Project or payments in connection with the Makeni Project made by ABSL for any other right, interest or estate in land.</p> <p>(d) Payments by ABSL of Marketing Fees in connection with the Makeni Project not exceeding 5 per cent of ethanol sales (as stated in ABSL's audited income statement) will be deductible for corporate tax purposes. Marketing Fees in excess of 5 per cent of ethanol sales will not be deductible for corporate tax purposes.</p> <p>(e) Any payment of Overhead Allocation in connection with the Makeni Project made by ABSL on or before 31 December 2014 and any payment of Overhead Allocation in connection with the Makeni Project made on or after 1 January 2015 and which does not exceed the Overhead Cap will be deductible for corporate tax purposes, as long as in respect of that payment: i) invoices have been submitted and set out in a schedule of expenses verified by independent auditors; and ii) the audited schedule has been approved by the board of directors of ABSL. Any payment of Overhead Allocation in connection with the Makeni Project made on or after 1 January 2015 will not be deductible for corporate tax purposes to the extent such payment exceeds the Overhead Cap.</p> <p>(f) ABSL shall be entitled to claim Tax deductions in respect of depreciation of its capital assets of the Makeni Project on an accelerated basis over a period of 20 years from the Date of Commencement of Commercial Operations of the Makeni Project.</p> <p>(g) No amount payable or receivable by ABSL, its Affiliated Companies, its Shareholders and the Funders shall be subject to a transfer pricing adjustment which is not consistent with the principles set out in Article 9 of the OECD Model Tax Convention and the OECD Transfer Pricing Guidelines as amended from time to time.</p> <p>(h) GoSL shall not withhold, reject or unreasonably delay any clearances or consents in respect of Tax applied for by ABSL provided that and to the extent that such clearances or consents are not inconsistent with this Agreement.</p>



5.	Capital gains	Each of ABSL's Shareholders shall (subject to the provisions of any double tax treaty to which that Shareholder may be entitled to the benefit) be subject to tax in the Republic of Sierra Leone on any capital gain realised by that Shareholder in relation to the Makeni Project, including the sale of all or part of the business or the shares of ABSL. For the avoidance of doubt, a transfer of shares by any person or company (a Seller) of any shares in any company which Owns any shares in ABSL (an Intermediate Company) will not be subject to tax in the Republic of Sierra Leone on any capital gain realised by that Seller by reason of such transfer, provided that neither the Seller nor the Intermediate Company is resident in the Republic of Sierra Leone for tax purposes other than solely by reason of Owning shares in ABSL.
6.	Employee taxation	Employees of ABSL, its Contractors and their respective Sub-contractors who are citizens of a country other than the Republic of Sierra Leone shall be subject to Tax in the Republic of Sierra Leone only on their locally received income and shall be taxed on that income at a rate no higher than the same rate applied to employees with the same tax status in the Republic of Sierra Leone of other local companies or, if lower, the rate applied to employees with the same tax status in the Republic of Sierra Leone of non-citizen or non-resident companies. For the avoidance of doubt, employees of ABSL, its Contractors and their respective Sub-Contractors who are citizens of a country other than the Republic of Sierra Leone and payments to such persons shall not be subject to NASSIT.
7.	Goods and Services Tax	<p>(a) Where ABSL is the recipient of a taxable supply for Goods and Services Tax purposes under the Laws of the Republic of Sierra Leone in connection with the Makeni Project, the supplier making that supply must treat that supply as if it were a zero-rated supply for Goods and Services Tax purposes and all consequences will follow for the supplier and ABSL as if it were such a zero-rated supply. Any taxable import made by ABSL in connection with the Makeni Project will be treated as if it were a zero-rated import for Goods and Services Tax purposes. Any taxable supply which ABSL is treated as making by virtue of being a recipient of a supply of imported services in connection with the Makeni Project shall be treated as if it were a zero-rated supply for Goods and Services Tax purposes. In this paragraph 7, the expressions "input tax", "taxable import", "taxable supply" and "zero-rated" shall have the same meaning as they do in the Goods and Services Tax Act, 2009.</p> <p>(b) Notwithstanding paragraph 7(a) above, if and to the extent that ABSL incurs any amount of input tax imposed under the Laws of Sierra Leone in connection with the Makeni Project, the Competent Authority shall, on ABSL's request, promptly refund ABSL in full for all such amounts.</p> <p>(c) The Competent Authority shall pay any input tax refund due to to ABSL under paragraph 7(b) within two months of ABSL requesting the refund. If the Competent Authority does not pay the input tax refund within that two-month time limit, any amount of unpaid input tax refund shall immediately and to the fullest extent possible be set-off against any other Tax which is due and payable by ABSL in the Republic of Sierra Leone.</p>
8.	Residence	None of the Funders, ABSL's Affiliated Companies nor any company doing business with ABSL shall be, or be deemed to be, resident, domiciled, carrying on business (whether through a permanent establishment or otherwise) or otherwise subject to taxation in Sierra Leone solely in respect of the execution, delivery, performance or enforcement of the Project Documents or the Funding Documents or in respect of the carrying out of any part of the Makeni Project (and, for the avoidance of doubt, Contractors and Sub-contractors who would not otherwise be subject to taxation in Sierra Leone shall not be subject to taxation in Sierra Leone as a consequence of work which they carry on in connection with



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Schedule 3 – Representations and Warranties: GoSL

GoSL represents, warrants and undertakes that:

- 1 it has full power and authority to execute, deliver and perform its obligations under this Agreement and all necessary action has been or shall be taken by it to authorise the execution, delivery and performance of the same;
- 2 it shall take such action as required to ensure that its Ministries and Departments and the Competent Authorities comply with the Agreement;
- 3 it shall facilitate discussions with the relevant local authorities in relation to the imposition of local authority taxes and other local authority laws;
- 4 it shall not subject ABSL, the Shareholders or the Funders to any Tax or requirements in respect of Tax which are more burdensome than those to which an equivalent national of the Republic of Sierra Leone would be subject in the same circumstances;
- 5 this Agreement constitutes or shall constitute its legal, valid and binding obligations enforceable in accordance with its terms;
- 6 the execution and delivery of, and performance of its obligations under this Agreement shall be binding on any and all Competent Authorities, GoSL and any sub-division thereof and any other ministry or governmental, quasi governmental, or other regulatory department, body, instrumentality, agency, or authority of the Republic of Sierra Leone or of any sub-division thereof having jurisdiction over or in relation to this Agreement, any party or any asset or transaction referred to or contemplated by this Agreement, the Project Documents or the Funding Documents; and
- 7 the execution, delivery and performance of this Agreement do not and shall not constitute a default under any Law or any agreement or other instrument to which it is a party or which is binding on it.



Schedule 4— Representations and Warranties: ABSL

ABSL represents and warrants that:

- 1 it is duly organised and existing and in good standing under the Laws of the Republic of Sierra Leone and has the right, power and authority to enter into this Agreement as is necessary to enable it to perform its obligations under this Agreement; and
- 2 the execution, delivery and performance of this Agreement by ABSL has been duly authorised by all necessary corporate action of ABSL and this Agreement constitutes the valid binding and enforceable obligation of ABSL.

IN WITNESS whereof the Parties have entered into this Agreement on the date first above written.

Signed by
duly authorised for and
on behalf of
The Government of Sierra Leone

The Ministry of Finance and Economic
Development

The Ministry of Trade and Industry

Signed by
duly authorised for and
on behalf of
Addax Bioenergy (SL) Limited

Signed by
duly authorised for and
on behalf of
Addax Bioenergy (SL) Limited

) *Lamlay*
) *Lanning M. W. Kamau*
) *1/9/11*

) *Richard*
) *DR. RICHARD KONTA*
) *21/8/11*

) *N. Am*
) *Nikolai Germain*
) *Managing Director*
) *James*
) *Vincent L. Kane*
) *Director*

