

THE EXPORT-IMPORT BANK OF CHINA

as Lender

and

THE REPUBLIC OF ECUADOR

represented by

THE MINISTRY OF FINANCE OF THE GOVERNMENT OF
THE REPUBLIC OF ECUADOR



Buyer Credit Loan Agreement

(Contract No. 1410202052010210644)

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Contents

Clause	Page
1. Definitions	1
2. Amount of Facility and Purpose of Loan Agreement	5
3. Conditions Precedent	5
4. Disbursement	7
5. Interest and Fees	9
6. Repayment and Prepayment	10
7. Payments and Currency	13
8. Taxes	13
9. Increased Costs	14
10. Representations and Warranties	15
11. Undertakings	17
12. Expenses	19
13. Events of Default	19
14. Governing Law and Dispute Resolution	21
15. Effectiveness	22
16. Miscellaneous	23
Annex A Project Description	26
Form 1 Notice of Drawdown	27
Form 2 Repayment Schedule	28
Form 3 Legal Opinion of General Legal Coordinator (Coordinador General Jurídico) of the Borrower	29
Form 4 Withdrawal Report	32

This **BUYER CREDIT LOAN AGREEMENT** (the "**Buyer Credit Loan Agreement**") is made on this 3rd day of June, 2010 by and between **THE EXPORT-IMPORT BANK OF CHINA** (hereinafter referred to as the "**Lender**", with its principal office at the date hereof at No. 30, Fuxingmennei Street, Xicheng District, Beijing 100031, China) and **THE REPUBLIC OF ECUADOR** represented by **THE MINISTRY OF FINANCE OF THE GOVERNMENT OF THE REPUBLIC OF ECUADOR** (hereinafter referred to as the "**Borrower**", with its principal office at Ave. 10 de Agosto 1661 y Jorge Washington, Quito, Ecuador).

WHEREAS:

- (A) Coca Codo Sinclair E.P. (hereinafter referred to as the "**Project Company**") requires financing for the execution of the Project (as defined in Article 1.1) through the EPC Contract (as defined in Article 1.1);
- (B) The Borrower has requested that the Lender make available a commercial loan facility under this Buyer Credit Loan Agreement to the Borrower for the purpose of partially financing the Hydroelectric Project Coca Codo Sinclair for eighty-five per cent (85%) of the EPC Contract Amount (as defined in Article 1.1);
- (C) In accordance with the Memoranda of Understanding for Financing of Coca Codo Sinclair Hydroelectric Project entered into by and between the Borrower and the Lender on 13 February 2009 and 2 June 2009, the Lender has agreed to make a commercial loan facility available to the Borrower on the terms and conditions set out herein;
- (D) According to the requirement of the Chinese Government, the Facility must be covered by an export credit insurance policy issued or to be issued by China Export & Credit Insurance Corporation.

NOW THEREFORE, the Borrower and the Lender hereby agree as follows:

1. Definitions

- 1.1 In this Buyer Credit Loan Agreement and in the Annexes and Forms hereto, the following expressions shall, unless the context otherwise requires, have the following meanings:

"Advance" means the principal amount of each borrowing under this Buyer Credit Loan Agreement or the principal amount outstanding under that borrowing;

"Business Day" means a day (other than a Saturday or Sunday) on which banks and/or other financial institutions are open for banking business in Beijing, Quito and (in relation to any day for payment or purchase of US Dollars) New York City;

"Central Bank" means the Central Bank of Ecuador;

"Central Bank Specific Account" means, in respect of a Disbursement, the special sub-account designated as "Coca Codo Sinclair Project" (account number: CCU. C.EXT – EXIM CHINA – PROYECTO HIDROELECTRICO COCA CODO SINCLAIR / Cuenta Corriente #01110223) opened by and in the name of the Borrower in the unique checking account (CCU in Spanish) with the Central Bank, which is designated and specified for the sole purpose of disbursement procedure as stipulated in Article 4.2;

"China" means the People's Republic of China;

"Commitment" means US\$ 1,682,745,000.00 (One Billion and Six Hundred Eighty Two Million and Seven Hundred Forty Five Thousand US Dollars) (being equal to eighty-five per cent (85%) of the EPC Contract Amount), to the extent not cancelled, transferred or reduced under this Buyer Credit Loan Agreement;

"Default" means:

- (a) an Event of Default; or
- (b) an event or circumstance which would be (with the expiry of a grace period, the giving of notice or the making of any determination under this Buyer Credit Loan Agreement or any combination of the foregoing) an Event of Default under Articles 13.1(a), 13.1(b) or 13.1(d) to 13.1(i);

"Disbursement" means an Advance of the Facility made in accordance with Article 4;

"Disbursement Date" means each date on which a Disbursement is made;

"Disbursement Period" means the period from and including the Effective Date and to and including the earlier of (a) the date falling 66 months after the Effective Date, (b) the date on which the Facility is fully disbursed, cancelled or terminated under this Buyer Credit Loan Agreement, and (c) any other date mutually agreed upon in writing by the Lender and the Borrower;

"Disbursement Period End Date" means the last day of the Disbursement Period;

"Effective Date" means the date on which the Chinese Government issues the approval letter in respect of the Project;

"EPC Contract" means the Engineering, Procurement and Construction Contract dated 5 October 2009, entered into between the Project Company and the EPC Contractor for the construction of the Project or any new contract entered into pursuant to Article 6.6(b);

"EPC Contractor" means Sinohydro Corporation or any successor contractor appointed pursuant to a new contract entered into by the Project Company and such contractor pursuant to Article 6.6(b);

"EPC Contract Amount" means, in respect of the EPC Contract, US\$ 1,979,700,000.00 (One Billion Nine Hundred and Seventy-Nine Million and Seven Hundred Thousand US Dollars), being the total amount payable by the Project Company to the EPC Contractor in accordance with the EPC Contract;

"Ecuador" means the Republic of Ecuador;

"Encumbrance" means any mortgage, pledge, lien, charge, encumbrance or other security interest of any kind or nature whatsoever and howsoever arising;

"Event of Default" means any of the events specified in Article 13.1;

"External Indebtedness" means any payment obligations under any loan agreement and/or any guarantee which:

- (a) by their terms are repayable more than one (1) year from the date incurred; and

(b) are payable to a person, domiciled, resident or having its head office or principal place of business outside Ecuador;

"Facility" means the credit line in US Dollars to be made available under this Buyer Credit Loan Agreement;

"Final Maturity Date" means the date falling 180 months after the Effective Date;

"Insurance Company" means China Export & Credit Insurance Corporation;

"Insurance Policy" means the Export Credit Insurance Policy (together with all corresponding endorsements, if any) issued or to be issued by the Insurance Company to cover certain of Borrower's payment obligations under this Buyer Credit Loan Agreement, with the EPC Contractor as policy holder and the Lender as beneficiary and loss payee, which is in form and substance acceptable to the Lender;

"Interest Payment Date" means the 21st day of March and the 21st day of September in each calendar year;

"Interest Period" means, in relation to an Advance, any period determined in accordance with Article 5.1;

"Material Adverse Effect" means a material adverse effect on (a) the financial condition of the Borrower, or (b) the ability of the Borrower to perform its obligations under this Buyer Credit Loan Agreement, or (c) the validity or enforceability of or effectiveness or ranking of this Buyer Credit Loan Agreement;

"Notice of Drawdown" means a notice in the form set forth in Form 1 attached hereto;

"Paris Club" means the informal group of official creditors (currently numbering nineteen permanent Paris Club members) who regularly meet in Paris and whose objective is to find coordinated and sustainable solutions to the payment difficulties experienced by debtor countries;

"Project" means the Coca Codo Sinclair Hydroelectric Project as described in more details in Annex A;

"Relevant Indebtedness" means the indebtedness of Borrower (a) under the Borrower's 12 per cent. US Dollar Denominated Global Bonds due 2012, and (b) under the Borrower's US Dollar Denominated Step-Up Global Bonds due 2030;

"Repayment Date" means the 21st day of March and the 21st day of September in each calendar year (each as listed in the Repayment Schedule) on which a repayment installment of principal is due under Article 6, and the first Repayment Date shall be on the first Interest Payment Date immediately succeeding the Disbursement Period End Date;

"Repayment Schedule" means the schedule in the form set forth in Form 2 attached hereto, as the same may be amended from time to time in accordance with Article 6.2;

"Repeating Representations" means the representations in Articles 10.1(a) to 10.1(e), 10.1(g) to 10.1(i), 10.1(k) and 10.1(l);

"Tax" means any tax, levy, duty, charge, fee, deduction or withholding of any nature now or hereafter imposed, levied, collected, withheld or assessed by any taxing or other authority and includes any interest, penalty or other charge payable or claimed in respect of any of the foregoing;

"Tax Deduction" means a deduction or withholding for or on account of Tax from a payment under this Buyer Credit Loan Agreement;

"US Dollar" or **"US\$"** means the lawful currency for the time being of the United States of America; and

"Withdrawal Report" means a withdrawal report in the form set forth in Form 4 attached hereto.

1.2 In this Buyer Credit Loan Agreement, unless the context requires otherwise, any reference to:

- (a) "including" or "includes" means including or includes without limitation;
- (b) "indebtedness" includes any obligation of any person for the payment or repayment of money, whether present or future, actual or contingent, or otherwise, including but not limited to any such obligation:
 - (i) under or in respect of any acceptance, bill, bond, note or similar instrument;
 - (ii) under or in respect of any guarantee, indemnity, counter-security or other assurance against financial loss;
 - (iii) in respect of the purchase, or lease of any asset or service;
 - (iv) in respect of any indebtedness of any other person whether or not secured by or benefiting from an Encumbrance on any property or asset of such person; or
 - (v) in respect of any form of off-balance sheet financing;
- (c) "law" and/or "regulation" includes any constitutional provisions, treaties, conventions, statutes, laws, decrees, orders, rules and regulations having the force of law;
- (d) "order" includes any judgment, injunction, decree, determination or award of any court, arbitration or administrative tribunal;
- (e) "person" means an individual, corporation, partnership, joint venture, trust, unincorporated organization or any other juridical entity, or a sovereign state or any agency, authority or administrative subdivision thereof, or any international organization, agency or authority;
- (f) "month" means a period commencing on a specific day in any calendar month and ending on and including the day immediately preceding the numerically corresponding day in the next succeeding calendar month, provided that if there is no such numerically corresponding day in the next succeeding calendar month, such period shall expire on and including the last day of such next succeeding calendar month, and references to "months" shall be construed accordingly; and

(g) a Default being outstanding means that it has not been waived by or remedied to the satisfaction of, the Lender.

- 1.3 The expressions of "Borrower", "Lender", "Project Company", "EPC Contractor" or any other person shall, where the context permits, include their respective successors and permitted assigns and any persons deriving title under them.
- 1.4 References to this Buyer Credit Loan Agreement, the EPC Contract or other related document includes (without prejudice to any prohibition on amendments) any amendment to this Buyer Credit Loan Agreement, the EPC Contract or other related document.
- 1.5 Article and Section headings in this Buyer Credit Loan Agreement and the Table of Contents are inserted for ease of reference only and do not form a part of this Buyer Credit Loan Agreement and shall have no effect on the interpretation of the provisions hereof.
- 1.6 The Annex and the Forms to this Buyer Credit Loan Agreement shall form an integral part hereof.
- 1.7 Where the context so requires, words importing the singular number shall include the plural and vice versa.
- 1.8 Unless expressly provided to the contrary in this Buyer Credit Loan Agreement, a person who is not a party to this Buyer Credit Loan Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 and, notwithstanding any term of this Buyer Credit Loan Agreement, no consent of any third party is required for any amendment (including any release or compromise of any liability) or termination of this Buyer Credit Loan Agreement.

2. **Amount of Facility and Purpose of Loan Agreement**

- 2.1 **Amount** The Lender hereby agrees to make available to the Borrower, on and subject to the terms and conditions of this Buyer Credit Loan Agreement, the Facility in an aggregate amount not exceeding the Commitment, which is US\$ 1,682,745,000.00 (One Billion and Six Hundred Eighty Two Million and Seven Hundred Forty Five Thousand US Dollars) as of the date of this Buyer Credit Loan Agreement.
- 2.2 **Purpose of Loan Agreement** The entire proceeds of the Facility shall be applied towards, and for the sole purpose of, the payment of eighty-five per cent (85%) of the EPC Contract Amount.

3. **Conditions Precedent**

- 3.1 A Notice of Drawdown for the first Disbursement may not be given until the Lender has notified the Borrower that the Lender has received (or waived receipt of) all of the following documents, each in form and substance satisfactory to the Lender in all respects:
 - (a) certified true copies of documentary evidence of the authority of each person who (i) has signed this Buyer Credit Loan Agreement on behalf of the Borrower and (ii) will sign the statements, financial reports, account certificates in relation to the Central Bank Specific Account and other documents required by this Buyer Credit Loan Agreement and will otherwise act as a representative of the Borrower in relation to the implementation of this Buyer Credit Loan Agreement (such documentary evidence to be satisfied through the authenticated specimen signature of and certificate of incumbency and power of attorney in respect of each person described above);

- (b) this Buyer Credit Loan Agreement duly executed by the Lender and the Borrower;
- (c) a certified true copy of the EPC Contract duly executed by the Project Company and the EPC Contractor, and evidence that the EPC Contract has come into effect;
- (d) all documents evidencing that the down payment (being fifteen per cent (15%) of the EPC Contract Amount) under the EPC Contract has been paid to the EPC Contractor;
- (e) certified true copies of all approvals or consents by the governmental authorities of Ecuador which are required under the laws and regulations of Ecuador approving the borrowing by the Borrower under this Buyer Credit Loan Agreement or in respect of the execution, delivery and the performance of this Buyer Credit Loan Agreement, including:
 - (i) declaration of priority of the Project by the National Secretariat on Planification and Development of Ecuador (Secretaria Nacional de Planificación y Desarrollo), SENPLADES;
 - (ii) determination of the economic and financial feasibility of the Project by the Ministry of Finance of Ecuador (Ministerio de Finanzas);
 - (iii) approval by the General Attorney's Office of Ecuador (Procuraduría General del Estado) in respect of the submission to arbitration under the LCIA Arbitration Rules (the "Rules");
 - (iv) minutes whereby the Inter-Institutional Financing Committee of Ecuador (Comité Interinstitucional de Financiamiento) consents to the Borrower incurring the indebtedness under and to enter into, this Buyer Credit Loan Agreement; and
 - (v) resolution whereby the Financing and Debt Committee of Ecuador (Comité de Deuda y Financiamiento) authorizes the Borrower to incur the indebtedness under and to enter into, this Buyer Credit Loan Agreement;
- (f) certified true copies of all filing, registration and record of this Buyer Credit Loan Agreement and any other documents with any governmental agency, court, public office or other authority required under the laws and regulations of Ecuador to ensure the validity, legality and enforceability of such documents, including:
 - (i) registration of this Buyer Credit Loan Agreement with the Ministry of Finance of Ecuador (Ministerio de Finanzas); and
 - (ii) registration of this Buyer Credit Loan Agreement with the Central Bank of Ecuador (Banco Central del Ecuador);
- (g) certified true copies of any and all documents which evidence that all fees and expenses then due and payable under this Buyer Credit Loan Agreement have been paid by the Borrower to the Lender in accordance with Article 5;
- (h) a legal opinion of the General Legal Coordinator(Coordinador General Jurídico) of the Ministry of Finance in the form set forth in Form 3 attached hereto;

- (i) a legal opinion of Allen & Overy LLP, legal advisers in England and Wales to the Lender, addressed to the Lender;
- (j) such other documents relating to any of the matters contemplated herein as the Lender may reasonably request; and
- (k) any other governmental approval as may be required under the laws of Ecuador.

3.2 The Borrower hereby undertakes or, as appropriate, procures to undertake that all of the above documents (other than those described in Article 3.1(i)) shall be delivered to the Lender in the shortest possible time from the date hereof.

3.3 All the documents and evidence referred to in Article 3.1 shall be in form and substance satisfactory to the Lender. Copies required to be certified shall be certified in a manner satisfactory to the Lender by a duly authorised and responsible officer of the Borrower or other party concerned.

4. Disbursement

4.1 **Further Conditions** Any Disbursement to the Borrower is subject to the following further conditions:

- (a) all the conditions precedent specified in Article 3.1 shall have been satisfied (or waived by the Lender) before the issuance of a Notice of Drawdown by the Borrower;
- (b) the Lender shall have received not later than 12:00 noon (Beijing time) on the seventh (7th) Business Day before the proposed Disbursement Date, a Notice of Drawdown duly completed and submitted by the Borrower, under which:
 - (i) the proposed Disbursement Date should be a Business Day falling within the Disbursement Period;
 - (ii) the amount of the Advance requested is:
 - (A) a minimum of ten million US Dollars (US\$ 10,000,000);
 - (B) the maximum undrawn amount available under the Facility on the proposed Disbursement Date; or
 - (C) such other amount as the Lender and the Borrower may agree;
 - (iii) only one Advance may be requested in a Notice of Drawdown;
- (c) on each of the date of a Notice of Drawdown and the Disbursement Date, no Default is outstanding nor would a Default result from the making of such Disbursement;
- (d) on each of the date of a Notice of Drawdown and the Disbursement Date, the representations and warranties which are then made or deemed to be repeated under Article 10.2 are correct in all respects;
- (e) on each of the date of a Notice of Drawdown and the Disbursement Date, the Commitment is not capable of being cancelled and the Advances are not payable pursuant to Article 6.6;

- (f) on or before the Disbursement Date for the first Disbursement under this Buyer Credit Loan Agreement, a written notice given by the Insurance Company to the Lender, stating that the Insurance Policy has come into effect and that insurance obligations of the Insurance Company under the Insurance Policy have become enforceable; and
- (g) in the case of a Disbursement other than the first Disbursement, the Lender shall have received not later than 12:00 noon (Beijing time) on the seventh (7th) Business Day before the proposed Disbursement Date, a bank remittance document or other written evidence satisfactory to the Lender confirming that the proceeds of each Disbursement made by the Lender prior to the proposed Disbursement have been duly paid by or on behalf of the Project Company to the EPC Contractor in accordance with the EPC Contract.

4.2 **Disbursement Procedure** Subject to Article 3 and Article 4.1, the Lender shall make each Disbursement in accordance with the following procedures:

- (a) After the Lender notifies the Borrower in respect of the satisfaction of conditions precedent in accordance with Article 3.1, the Borrower may issue an irrevocable Notice of Drawdown via courier or via facsimile, provided that if delivery is via facsimile, the Borrower shall also deliver, and the Lender shall also have received, the original Notice of Drawdown not later than 12:00 noon (Beijing time) on the fifth (5th) Business Day before the proposed Disbursement Date.
- (b) The Borrower should designate the Central Bank Specific Account as the account into which the proceeds of the Disbursement shall be paid. The timing and amounts of the Disbursements requested by the Borrower under the Notices of Drawdown shall substantially follow the amounts and timing of the payment of the EPC Contract Amount.
- (c) On the requested Disbursement Date, the Lender shall pay the proceeds of the Disbursement requested in the relevant Notice of Drawdown to the Central Bank Specific Account.
- (d) The Borrower acknowledges and confirms that, for the avoidance of doubt, forthwith upon the payment of the Disbursement to the Central Bank Specific Account, the Lender shall, to the extent of the actual amount disbursed, have completed its Disbursement obligation in respect of the relevant Advance under this Buyer Credit Loan Agreement. Such Disbursement shall become the indebtedness repayable by the Borrower in accordance with this Buyer Credit Loan Agreement.

4.3 **No Excess of Commitment** The Lender shall not be under any obligation to make any further Disbursement under the Facility if, as a result, the aggregate amount of all Advances would exceed the Commitment.

4.4 **Confirmation of the Borrower** The Borrower confirms and agrees that any dispute between the Project Company and the EPC Contractor arising from the EPC Contract shall in no event affect its performance of the obligations under this Buyer Credit Loan Agreement.

4.5 **"Final Maturity Date"** means the date falling 180 months after the Effective Date.

4.6 **"Disbursement Period"** means the period from and including the Effective Date and to and including the earlier of (a) the date falling 66 months after the Effective Date, (b) the date on which the Facility is fully disbursed, cancelled or terminated under this Buyer Credit Loan Agreement, and (c) any other date mutually agreed upon in writing by the Lender and the Borrower.

5. Interest and Fees

5.1 Interest Period

- (a) Each Advance has successive Interest Periods.
- (b) Subject to the following provisions of this Article, the Interest Period applicable to each Advance shall be six (6) months.
- (c) Each Interest Period for an Advance will commence on the last day of its preceding Interest Period, provided that, the first Interest Period for an Advance will commence on its Disbursement Date (inclusive) and end on the first Interest Payment Date thereafter (exclusive).
- (d) An Interest Period for an Advance will end on the same day as the current Interest Period for any other Advance. On that last day of those Interest Periods, those Advances will be consolidated and treated as one (1) Advance.

5.2 **Interest Rate** The rate of interest applicable to each Advance for each Interest Period shall be six point nine per cent (6.9%) per annum.

5.3 **Interest Payment** Interest at the rate determined as aforesaid shall accrue on the Advances from day to day, shall be calculated on the basis of the actual number of days elapsed and a 360 day year, including the first day of the Interest Period during which it accrues but excluding the last, and shall be paid in arrears on each Interest Payment Date in accordance with the Repayment Schedule.

5.4 **Management Fee** The Borrower shall pay to the Lender for only one (1) time a Management Fee computed at the rate of zero point four per cent (0.4%) of the amount of the Commitment, being US\$ 6,730,980 (Six Million and Seven Hundred and Thirty Thousand and Nine Hundred and Eighty US Dollars) prior to the making of the first Disbursement.

PERIODISMO DE INVESTIGACIÓN

5.5 **Commitment Fee** The Borrower shall pay to the Lender a commitment fee computed at the rate of zero point four per cent (0.4%) per annum on the undisbursed portion of the Commitment. Such commitment fee shall accrue from and including the date of the first Disbursement up to but excluding the Disbursement Period End Date. The commitment fee shall be calculated on the basis of the actual number of days elapsed and a 360 day year, and shall accrue on a daily basis and be paid in arrears on each Interest Payment Date during the Disbursement Period.

5.6 Default Interest

- (a) In case the Borrower fails to pay any amount payable by it under this Buyer Credit Loan Agreement (excluding the interest accrued on the Advances) on its due date, the Borrower shall pay to the Lender interest on such overdue amount at a rate equal to the interest rate specified in Article 5.2 plus a margin of one point five per cent (1.5%) per annum for the period from and including the due date thereof to the date of actual payment thereof, both before, on and after judgment. The Borrower acknowledges that any failure to pay interest payable under this Buyer Credit Loan Agreement when due shall constitute an Event of Default under Section 13.1 (a) unless the non-payment is remedied within five (5) Business Days of the due date.
- (b) Such interest shall accrue from day to day, shall be calculated on the basis of the actual number of days elapsed and a 360 day year and shall be payable immediately on demand by the Lender.

- (c) The certificate of the Lender as to the rate and amount of any interest payable under this Article 5.6 shall be prima facie evidence of the matters to which it relates and binding upon the Borrower in the absence of manifest error.

6. Repayment and Prepayment

- 6.1 **Repayment** The Borrower shall repay the Advances outstanding at the end of the Disbursement Period in nineteen (19) equal successive six-monthly instalments on each Repayment Date to the Lender in accordance with the Repayment Schedule. The Lender shall deliver the Repayment Schedule to the Borrower at least thirty (30) days before the first Repayment Date. For avoidance of doubt, any failure or delay by the Lender in delivering the Repayment Schedule shall not release or discharge the Borrower's repayment and payment obligations under this Buyer Credit Loan Agreement.

6.2 Repayment Schedule

- (a) The Repayment Schedule prepared and amended from time to time by the Lender with the agreement of the Borrower, as to each Repayment Date, each Interest Payment Date and the amount of the Advances or interest to be repaid or paid on any such dates shall be conclusive and binding upon the Borrower in the absence of manifest error.
- (b) The Lender is entitled to amend the Repayment Schedule with the agreement of the Borrower to reflect any change to the information contained in the Repayment Schedule, due to any cancellation or prepayment under this Buyer Credit Loan Agreement. Any amended Repayment Schedule, once sent by the Lender to the Borrower, shall replace the original Repayment Schedule and shall be conclusive and binding on the Borrower in the absence of manifest error.

- 6.3 **Automatic Cancellation** Any part of the Commitment undisbursed at the close of business on the Disbursement Period End Date shall be automatically cancelled and shall not thereafter be available to the Borrower.

- 6.4 **Voluntary Prepayment** Subject to the written consent by the Lender (not to be unreasonably withheld) and the following terms and conditions, the Borrower may upon the giving of not less than thirty (30) days' prior written notice to the Lender (or such shorter period as the Lender may agree) on any Interest Payment Date after the Disbursement Period End Date prepay any Advance in whole or in part to the Lender.

- (a) **Conditions to Prepayment** In respect of each prepayment under this Article 6.4:

- (i) the Borrower shall have given to the Lender not less than thirty (30) days' prior written notice of its intention to make the prepayment, specifying the proposed prepayment amount and the proposed prepayment date;
- (ii) the amount of any partial prepayment shall be not less than five million US Dollars (US\$ 5,000,000) and an integral multiple of one hundred thousand US Dollars (US\$ 100,000.00).

- (b) **Lender's Approval** After all the conditions in Article 6.4(a) have been fulfilled to the satisfaction of the Lender, if the Lender consents to the prepayment (such consent not to be unreasonably withheld), it shall issue a notice of approval of prepayment to the Borrower.

- (c) **Obligated to Prepay** Any notice of prepayment given by the Borrower under Article 6.4(a)(i) shall be irrevocable and upon the Lender's issuance of the notice of approval under Article 6.4(b), the Borrower shall be bound to make a prepayment in accordance therewith.

(d) **Prepayment Fee**

- (i) The Borrower shall, on the date of a prepayment under this Article 6.4, pay to the Lender a prepayment fee in an amount calculated by the Lender in accordance with the following formula and notified to the Borrower in the notice of approval mentioned in Article 6.4(b):

$$P = A \times 1.35\% \times (180 - B) / 12$$

where P = prepayment fee payable

A = principal amount of Advance(s) to be prepaid

B = the number of months elapsed between the Effective Date and the date of prepayment

- (ii) On any prepayment, the Borrower may request the Lender to waive the prepayment fee, and the Lender may consider in good faith such waiver request.

6.5 **Mandatory Prepayment - Illegality**

- (a) If at any time the Lender determines that it is or will become unlawful in any applicable jurisdiction or contrary to any applicable directive of any governmental, inter-governmental or super-national agency having the force of law (or if not having the force of law, being of a type with which the Lender is accustomed to comply for it to perform any of its obligations under this Buyer Credit Loan Agreement, to make, fund or allow to remain outstanding all or part of the Advances under this Buyer Credit Loan Agreement, upon the Lender's notifying the Borrower of the same:

- (i) the Commitment shall be immediately cancelled; and
- (ii) the Borrower shall prepay such Advances on such date as the Lender shall certify (on the basis of external legal advice, specifying the name of the external legal counsel) to be necessary to comply with the relevant law or directive.

- (b) The Lender and the Borrower shall, in consultation with each other, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, this Article 6.5. This paragraph (b) does not in any way limit the obligations of the Borrower under this Buyer Credit Loan Agreement. The Borrower shall indemnify the Lender for all costs and expenses reasonably incurred by the Lender as a result of steps taken by it under this paragraph (b). Neither the Lender nor the Borrower is obliged to take any mitigation steps under this paragraph (b) if, in its opinion, to do so might be prejudicial to it.

6.6 Prepayment - EPC Contract

- (a) The Borrower shall give the Lender not less than thirty (30) days' prior notice of any termination or cancellation of the EPC Contract. If the EPC Contract is terminated pursuant to its terms as a result of any act or omission of the government of Ecuador or due to any default by the Project Company under the EPC Contract:
 - (i) the Commitment shall be immediately cancelled; and
 - (ii) on the date of termination or cancellation of the EPC Contract, the Borrower shall prepay all the Advances.
- (b) In the case where the written notice under paragraph (a) above is of any intention to exercise any right to terminate or cancel the EPC Contract on the ground of any breach by the EPC Contractor of its obligations under the EPC Contract which entitles the Project Company to so terminate or cancel the EPC Contract, the Lender and the Borrower shall each appoint two representatives to form a committee to discuss in good faith for forty five (45) days (provided upon the agreement of Borrower and Lender, subject to one additional extension as so agreed) whether the EPC Contract can be continued or whether any qualified replacement contractor recommended by the Lender should be appointed. If a replacement contractor reasonably acceptable to the Lender is appointed on terms substantially similar to the EPC contract or otherwise reasonably acceptable to the Lender, the Project Company may terminate or cancel the EPC Contract.
- (c) If the parties are (i) unable to continue the EPC Contract or agree on a replacement contractor pursuant to paragraph b) above, or (ii) the EPC Contract ceases to be in full force and effect or becomes invalid or unenforceable, upon the Lender's notifying the Borrower of the same:
 - (i) the Commitment shall be immediately cancelled; and
 - (ii) All Advances and all other amounts outstanding hereunder shall be immediately payable by the Borrower.

6.7 Other Prepayment Provisions

- (a) The Borrower may only prepay any Advance in whole or in part in accordance with the express terms of this Buyer Credit Loan Agreement and no amount prepaid may be redrawn.
- (b) Any prepayment under this Buyer Credit Loan Agreement shall reduce the amount of repayment instalments of the Advance in inverse order of maturity.
- (c) Any prepayment under this Buyer Credit Loan Agreement shall be made together with all interest accrued thereon up to and including the day immediately preceding the date of such prepayment and any other amount then due and payable under this Buyer Credit Loan Agreement in respect thereof.

- 6.8 **Final Maturity Date** On the Final Maturity Date, notwithstanding any other provisions in this Buyer Credit Loan Agreement, the Borrower shall repay to the Lender all Advances outstanding, and pay unpaid interest accrued on the Advances and all other amounts then outstanding from the Borrower under this Buyer Credit Loan Agreement.

7. Payments and Currency

- 7.1 **Place and Time of Payment** All payments by the Borrower to the Lender under this Buyer Credit Loan Agreement shall be made in US Dollars in freely transferable and immediately available funds not later than 11:00 a.m., New York time on the relevant due date to the account of the Lender opened with the Bank of China, New York Branch (Account No.: 50036008046) or such other account as the Lender may from time to time by not less than thirty (30) days prior notice specify in the instruction to the Borrower for such payment with a message that such payment is made for "Buyer Credit Loan Agreement, No. 1410202052010210644".
- 7.2 **Payments Due on a Non-Business Day** If any payment to be made by the Borrower under this Buyer Credit Loan Agreement falls due on a day which is not a Business Day, the due date for that payment will instead be the immediately preceding Business Day.
- 7.3 **Payment in US Dollar** US Dollar shall be the currency of account and of payment in respect of any amount payable under this Buyer Credit Loan Agreement. The Lender and the Borrower agree that payment under this Buyer Credit Loan Agreement shall be paid in US Dollar.
- 7.4 **Insufficient Payment** If the amount of any payment or prepayment made by the Borrower under this Buyer Credit Loan Agreement is less than the total amount due and payable by the Borrower to the Lender as of the date on which such payment or prepayment is actually made by the Borrower, then the Borrower shall be deemed to have hereby waived any right which it may have to make any appropriation thereof (and any appropriation made and/or indicated by the Borrower in respect of such payment shall be of no effect) and the Lender may without reference to the Borrower apply and appropriate the payment or prepayment so made by the Borrower in or towards the satisfaction of any or all of the amounts which are due or overdue for payment on such day in the following order:
- (a) first, in or towards payment pro rata of any unpaid fees, costs and expenses of the Lender;
 - (b) secondly, in or towards payment pro rata of any accrued interest, fee (other than as provided in (a) above) or commission due but unpaid under this Buyer Credit Loan Agreement;
 - (c) thirdly, in or towards payment pro rata of any principal due but unpaid under this Buyer Credit Loan Agreement; and
 - (d) fourthly, in or towards payment pro rata of any other sum due but unpaid under this Buyer Credit Loan Agreement.

8. Taxes

8.1 **No Deduction**

- (a) All payments by the Borrower under this Buyer Credit Loan Agreement shall be paid in full to the Lender without set-off or counterclaim or retention, and shall be free and clear of and without any Tax Deduction.
- (b) In the event the Borrower is required by law to make any Tax Deduction, then the Borrower shall forthwith pay to the Lender such additional amount as will result in the immediate receipt by the Lender of the full amount which would have been received under this Buyer Credit Loan Agreement if no such Tax Deduction had been required.

- (c) If at any time the Borrower becomes aware that any Tax Deduction is or will be required, it shall promptly notify the Lender and supply all available details thereof.
- (d) If the Borrower is required to make a Tax Deduction, the Borrower shall make the minimum Tax Deduction allowed by law and shall make any payment required in connection with that Tax Deduction within the time allowed by law.
- (e) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Borrower shall deliver to the Lender evidence satisfactory to the Lender that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

8.2 Indemnification

- (a) Except as provided below, the Borrower shall indemnify the Lender against any loss or liability or cost which the Lender determines will be or has been suffered (directly or indirectly) by it for or on account of Tax in relation to a payment received or receivable (or any payment deemed to be received or receivable) under this Buyer Credit Loan Agreement.
- (b) Article 8.2(a) above does not apply with respect to any Tax assessed on the Lender under the laws of the jurisdiction in which the Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated as resident for tax purposes, if that Tax is imposed on or calculated by reference to the net income received or receivable by the Lender. However, any payment deemed to be received or receivable, including any amount treated as income but not actually received by the Lender, such as a Tax Deduction, will not be treated as net income received or receivable for this purpose.
- (c) Article 8.2(a) above does not apply to the extent a loss, liability or cost:
 - (i) is compensated for by an increased payment under Article 8.1; or
 - (ii) would have been compensated for by an increased payment under Article 8.1 but was not compensated solely because one of the exclusions in that Article applied.

- 8.3 Stamp Duty The Borrower shall promptly pay all present and future stamp and other like duties and taxes and all notarial, registration, recording and other like fees which may be payable in respect of this Buyer Credit Loan Agreement and any document referred to herein and shall indemnify the Lender against any and all liabilities, costs and expenses which may result from any default in paying such duties, taxes or fees.

9. Increased Costs

- 9.1 If the Lender determines that any change in any applicable law or regulation or in the interpretation or application thereof or compliance by the Lender with any applicable direction, request or requirement (whether or not having the force of law) of any competent governmental or other authority does or will:
- (a) subject the Lender to any Tax or other payment with reference to any amount payable by the Borrower under this Buyer Credit Loan Agreement (except where such Tax or payment is compensated for under another Article or would have been but for an exception to that Article); or

- (b) impose on the Lender any other condition the effect of which is to (i) increase the cost to the Lender of making available the Facility or funding or maintaining any Advance or (ii) reduce the amount of any payment receivable by, or the effective return to, the Lender in respect of the Facility or (iii) impose a cost on the Lender resulting from its making available the Facility or funding or maintaining any Advance,

the Lender may so notify the Borrower, and the Borrower shall from time to time forthwith upon demand pay to the Lender such amount as the Lender may certify to be necessary to compensate it for such Tax, payment, increased cost or reduction (each an "**increased cost**").

- 9.2 If the Lender intends to make a claim pursuant to Article 9.1, the Lender shall promptly notify the Borrower.

- 9.3 Article 9.1 does not apply to the extent any increased cost is:

- (a) attributable to a Tax Deduction required by law to be made by the Borrower;
- (b) compensated for by Article 8.2 (or would have been compensated for under Article 8.2 but was not so compensated solely because any of the exclusions in Article 8.2(b) and Article 8.2(c) applied); or
- (c) attributable to the wilful breach by the Lender of any law or regulation.

- 9.4 Notwithstanding the above, where such increased cost arises from circumstances contemplated in Article 9.1 which affect the Lender's business generally or the manner in which or extent to which it allocates capital resources:

- (a) upon notification served by the Lender to the Borrower, the Borrower and the Lender shall enter into a discussion for no more than thirty (30) days with the aim to reach on an alternative arrangement to mitigate or avoid such increased cost;
- (b) if no mutual agreement is reached during the above thirty-day period:
 - (i) the Borrower shall forthwith upon demand pay to the Lender such increased cost as the Lender determines and certifies fairly allocable to the Facility and/or the Advances; and
 - (ii) so long as the circumstances giving rise to such increased cost continue, the Borrower may, upon a written notice to the Lender not less than thirty (30) days' prior to the proposed prepayment date, prepay all of the Advances in whole in accordance with Article 6.7, and upon the giving of such notice the Commitment shall be immediately cancelled.

10. Representations and Warranties

- 10.1 The Borrower hereby represents and warrants for the benefit of the Lender that:

- (a) **Authorization** The Borrower has full power and authority to enter into this Buyer Credit Loan Agreement, to borrow the Facility under this Buyer Credit Loan Agreement and to perform and observe its obligations under this Buyer Credit Loan Agreement. The Borrower has taken and

completed all necessary and legal action or procedures necessary to authorize the execution, delivery and performance of this Buyer Credit Loan Agreement.

- (b) **Government Consents and Actions** All authorizations, approvals and consents from any governmental or other authority which are required for (i) the execution, delivery or performance of this Buyer Credit Loan Agreement or the validity and enforceability hereof or (ii) the borrowing of the Facility or (iii) the payment by the Borrower of all sums in US Dollar, have been duly effected, completed and obtained and are in full force and effect.
- (c) **Binding Effect** This Buyer Credit Loan Agreement has been duly executed and delivered by the Borrower and constitutes the legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms and conditions.
- (d) **No Contravention** The execution, delivery and performance of this Buyer Credit Loan Agreement by the Borrower do not and will not contravene, violate or constitute a default under (i) any provisions of any agreements or other instruments to which the Borrower is a party or by which the Borrower or any of its assets is or may be bound, (ii) any treaty, law, regulation, judgment or order applicable to the Borrower, or (iii) its constitutional documents.
- (e) **No Default** No Default is outstanding or will result from the entry into of, or the performance of the transactions contemplated by, this Buyer Credit Loan Agreement.
- (f) **Taxes** Under the laws of Ecuador, there is no Tax imposed (whether by withholding or otherwise) on or by virtue of the execution and delivery of this Buyer Credit Loan Agreement or any document or instrument to be executed and delivered under this Buyer Credit Loan Agreement, the performance hereof or thereof or the admissibility in evidence or enforcement hereof or thereof, or on any payment required to be made under this Buyer Credit Loan Agreement or thereunder.
- (g) **Pari Passu** The obligations and liabilities of the Borrower under this Buyer Credit Loan Agreement are direct, unconditional, general unsecured and unsubordinated obligations of the Borrower and rank and will rank at least pari passu in right of payment and security in all respects with all other present or future unsecured and unsubordinated External Indebtedness (both actual and contingent) of the Borrower.
- (h) **Commercial Activity** The execution and delivery of this Buyer Credit Loan Agreement by the Borrower constitute, and the Borrower's performance of and compliance with its obligations under this Buyer Credit Loan Agreement will constitute, acts of commercial credit done and performed under the laws of Ecuador.
- (i) **Proceedings to Enforce Agreement** In any proceedings in Ecuador to enforce this Buyer Credit Loan Agreement, the choice of English law as the governing law hereof will be recognized and such law will be applied. The irrevocable submission of the Borrower to the arbitration under the Rules is legal, valid, binding and enforceable and any award obtained in arbitration will be, if introduced, evidence for enforcement in any proceedings against the Borrower and its assets in Ecuador.
- (j) **Proper Form** This Buyer Credit Loan Agreement is in proper legal form under the laws of Ecuador and based on being governed by English law is capable of enforcement in the courts of Ecuador.

- (k) **No Registration** It is not necessary in order to ensure the legality, validity, enforceability and admissibility in evidence in proceedings in Ecuador of this Buyer Credit Loan Agreement that it or any other document or agreement be filed, recorded or registered with any court, authority, public office or any other authority of Ecuador, except that this Buyer Credit Loan Agreement shall be translated into Spanish and registered with the Ministry of Finance of Ecuador (Ministerio de Finanzas) and the Central Bank (Banco Central del Ecuador).
- (l) **No Encumbrance** No Encumbrance exists over all or any part of the property, assets or revenues of the Ministry of Finance of Ecuador, which will have material adverse effect on the Borrower's performance of its repayment obligations under this Buyer Credit Loan Agreement except as created liens arising by operation of law or as previously disclosed in writing to and agreed by the Lender.
- (m) **Status of External Indebtedness** The outstanding amount of the Borrower's External Indebtedness before the Effective Date is not more than US\$15,000,000,000.00 (Fifteen Billion US Dollars).
- (n) **Information Provided** All written information supplied to the Lender by or on behalf of the Borrower is true and accurate in all material respects at the time of provision and all forecasts and projections contained therein were arrived at after due and careful consideration on the part of the Borrower and were, in its considered opinion, fair and reasonable when made; the Borrower is not aware of any material fact which has not been disclosed in writing to the Lender necessary to make any statement in any written information supplied to the Lender by or on behalf of the Borrower, in light of the circumstances in which it was made, not misleading.

10.2 **Times for Making Representations and Warranties**

- (a) The representations and warranties set out in Article 10.1 are made by the Borrower on the date of this Buyer Credit Loan Agreement.
- (b) Unless a representation and warranty is expressed to be given at a specific date, each Repeating Representation is deemed to be repeated by the Borrower on the date of each Notice of Drawdown, the first day of each Interest Period and each Repayment Date.
- (c) When a representation and warranty is repeated, it is applied to the facts and circumstances subsisting at the time of repetition.

10.3 The Borrower acknowledges that the Lender has entered into this Buyer Credit Loan Agreement in reliance upon the representations and warranties contained in this Article 10.

11. **Undertakings**

11.1 **Affirmative Undertakings** Throughout the continuance of this Buyer Credit Loan Agreement and so long as any Commitment or any Advance or any other amount payable under this Buyer Credit Loan Agreement remains outstanding, the Borrower undertakes and agrees with the Lender that, unless the Lender otherwise agrees in writing:

- (a) **Information** the Borrower shall supply to the Lender:

- (i) as soon as the same are available and in any event within ten Business Days of the end of each calendar quarter, the quarterly reports on the actual utilization of the disbursed Advance and the utilization plan or drawdown plan for the next quarter;
- (ii) as soon as the same are available and in any event within ten Business Days of the end of each fiscal year, the annual budget prepared in accordance with Article 11.1(f) for the next fiscal year;
- (b) **Notifications** the Borrower shall promptly inform the Lender of:
 - (i) the occurrence of any Default and the steps, if any, being taken to remedy it;
 - (ii) the imposition of any law, decree or regulation materially and adversely affecting the Borrower's ability to perform its obligations under this Buyer Credit Loan Agreement;
 - (iii) the occurrence of any situation or event which would prevent or interfere with the performance by the Borrower of its obligations under this Buyer Credit Loan Agreement;
- (c) **Approvals and Consents** the Borrower shall maintain in full force and effect all such authorisations, approvals and consents as are referred to in Article 10.1(b), and take immediate steps to obtain and thereafter maintain in full force and effect any other authorisations which may become necessary or advisable for the purposes stated therein and comply with all conditions attached to all authorisations obtained;
- (d) **Pari Passu** the Borrower shall ensure that its obligations and liabilities under this Buyer Credit Loan Agreement will rank at least pari passu in all respects with all other existing or future unsecured and unsubordinated External Indebtedness (both actual and contingent) of the Borrower;
- (e) **Further Documents** the Borrower shall execute such documents in favor of the Lender and do all such necessary assurances, acts and things as the Lender may reasonably require to secure all obligations and liabilities hereby covenanted to be paid or hereby secured, and also give all notices, and directions which the Lender may reasonably require;
- (f) **Annual Budget** the Borrower shall include all amounts due and payable, or to fall due and payable to the Lender under this Buyer Credit Loan Agreement in each case within the relevant fiscal year in each of its annual budgets during each fiscal year. The Borrower may not justify any of its non-payment in due time by not having included the corresponding allocation in its budget;
- (g) **Central Bank Specific Account** the Borrower shall designate and specify the Central Bank Specific Account as the account into which the proceeds of each Disbursement should be paid in accordance with Article 4.2 and through which payment to EPC Contractor should be made;
- (h) **Disbursement Utilization** the Borrower shall procure that the proceeds of the Disbursements are used for the purpose as stipulated in Article 2.2;
- (i) **Payment Procedure** the Borrower shall, not later than three (3) Business Days after the date of each withdrawal from the Central Bank Specific Account, submit a Withdrawal Report to the Lender, and the Borrower shall procure that all payment and withdrawal from the Central Bank

Specific Account shall be made or effected in accordance with Article 11.1(h) and all other provisions of this Buyer Credit Loan Agreement. The Borrower shall at the end of every three month after the first Disbursement Date, and from time to time on reasonable request by the Lender, deliver to the Lender information on the Central Bank Specific Account as the Lender may request, including the balance of the account and each deposit and withdrawal of funds into or from the account;

- (j) **Change of Evidence of Authority** in the event of any change in the matters referred to in the documentary evidence provided for in Article 3.1(a)(ii), the Borrower shall promptly notify the Lender in writing of such change and, at the same time, furnish to the Lender relevant documentary evidence in respect of such change as well as authenticated specimen signatures of and certificates of incumbency in respect of any person(s) who are referred to in such documentary evidence as changed, if such change involves replacement of or addition to the person(s) referred to in Article 3.1(a)(ii). The Borrower further undertakes that the Lender may rely upon and refer to the documentary evidence, authenticated specimen signatures and certificates of incumbency previously received by the Lender until such time as the Lender receives notice from the Borrower of such change as well as the relevant documentary evidence as aforesaid.

- 11.2 The Borrower hereby represents, warrants and undertakes that its obligations and liabilities under this Buyer Credit Loan Agreement are independent and separate from those stated in agreements with other creditors (whether official creditors, Paris Club creditors or other creditors), and the Borrower shall not seek from the Lender any kind of comparable terms and conditions which are stated or might be stated in agreements with other creditors.

12. Expenses

The Borrower shall, from time to time forthwith on demand, pay to or reimburse the Lender for all costs, charges and expenses (including legal and other fees on a full indemnity basis and all other documented out-of-pocket expenses) properly and in good faith incurred by the Lender in exercising any of its rights or powers under this Buyer Credit Loan Agreement in connection with a Default or otherwise preserving or enforcing its rights under this Buyer Credit Loan Agreement (including in obtaining or enforcing any judgment or award given in respect of this Buyer Credit Loan Agreement).

13. Events of Default

- 13.1 Each of the following events and circumstances shall be an Event of Default:

- (a) the Borrower fails to pay any sum (including principal, interest, default interest or any other fees) payable under this Buyer Credit Loan Agreement when due and otherwise in accordance with the provisions thereof, unless the non-payment is remedied within five (5) Business Days of the due date;
- (b) the Borrower fails to duly and punctually perform, observe or comply with any of its obligations under this Buyer Credit Loan Agreement (other than any payment obligation referred to in Article 13.1(a) above), unless such failure is capable of remedy and is remedied within fifteen (15) Business Days (in the case of Article 4, 6 or 11) or thirty (30) Business Days (in all other cases) of the earlier of the Lender giving written notice of the failure to comply to the Borrower and the Borrower becoming aware of the failure;

- (c) any representation or warranty made or repeated by the Borrower in or in connection with this Buyer Credit Loan Agreement or any other statement otherwise made in any certificate, opinion or other document furnished in connection with this Buyer Credit Loan Agreement proves to have been incorrect or untrue or misleading in any respect considered by the Lender to be material when made or deemed to be repeated;
- (d) any of the following events occurs:
 - (i) any External Indebtedness (other than the Relevant Indebtedness) of the Borrower is not paid, partially or in full, when due (after the expiry of any originally applicable grace period);
 - (ii) as a result of an event of default or any provision having a similar effect (howsoever described), any External Indebtedness (other than the Relevant Indebtedness) of the Borrower becomes prematurely due and payable, is placed on demand;
 - (iii) any commitment for its External Indebtedness (other than the Relevant Indebtedness) is cancelled or suspended as a result of an event of default or any provision having a similar effect (howsoever described);
- (e) unless such event will not, in the Lender's good faith opinion, materially and adversely affect the ability of the Borrower to comply with its payment obligations under, or its obligations under Articles 4, 6 or 11, or the Borrower stops or suspends payments to its creditors generally or is unable or admits its inability to pay its External Indebtedness (other than the Relevant Indebtedness) as they fall due; or the Borrower or the Central Bank declares a moratorium, standstill or similar suspension of payments;
- (f) this Buyer Credit Loan Agreement ceases for any reason to be in full force and effect or is for any reason terminated or becomes invalid or unenforceable or if there is any purported termination of the same or it becomes impossible or unlawful for the Borrower or any other party thereto to perform any of its respective obligations under this Buyer Credit Loan Agreement, or for Lender to exercise all or any of its rights, powers and remedies under this Buyer Credit Loan Agreement;
- (g) the Borrower repudiates this Buyer Credit Loan Agreement or disclaims in writing all of its obligations under this Buyer Credit Loan Agreement;
- (h) any license, consent, approval or authorization of, or any filing or registration with, any governmental authority or agency necessary from the jurisdiction of the Borrower for the validity or enforceability of this Buyer Credit Loan Agreement or the making or performance by the Borrower of its respective payment or other material obligations under this Buyer Credit Loan Agreement, or any agreement or instrument required under this Buyer Credit Loan Agreement or for the admissibility in evidence of this Buyer Credit Loan Agreement is revoked, or is not issued or timely renewed, or cease to remain in full force and effect; and
- (i) any other material and adverse situation arises or event occurs which, in the reasonable judgment of the Lender, would have a Material Adverse Effect.

13.2 If an Event of Default is outstanding, the Lender may, by written notice to the Borrower, take either or both of the following actions (but without prejudice to any other rights and remedies available to it under this Buyer Credit Loan Agreement or the general law):

- (a) cancel all or any part of the Commitment; and/or
- (b) declare that all or part of any amounts outstanding under this Buyer Credit Loan Agreement are immediately due and payable without further demand, notice or other legal formality of any kind and/or are payable on demand by the Lender.

Any notice given under this Article 13.2 will take effect in accordance with its terms.

14. Governing Law and Dispute Resolution

14.1 **Governing Law** This Buyer Credit Loan Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by English law.

14.2 **Good Faith Consultation** The parties hereto undertake to use their best efforts to resolve any dispute arising out of or in connection with this Buyer Credit Loan Agreement through consultation in good faith and mutual understanding, provided that such consultation shall not prejudice the exercise of any right or remedy of either party hereto by any such party in respect of any such dispute.

14.3 **Submission to Arbitration**

- (a) Any dispute, claim, difference or controversy arising out of, relating to or having any connection with this Buyer Credit Loan Agreement, including any dispute as to its existence, validity, interpretation, performance, breach or termination or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with it (a "Dispute"), shall be referred to and finally resolved by arbitration under the Rules.
- (b) The Rules are incorporated by reference into this Article and capitalised terms used in this Article which are not otherwise defined in this Buyer Credit Loan Agreement have the meaning given to them in the Rules.
- (c) The number of arbitrators shall be three. The Borrower and the Lender shall each nominate one arbitrator for appointment by the LCIA Court. The LCIA Court shall appoint the third arbitrator who shall act as chairman.
- (d) The seat, or legal place of arbitration, shall be London.
- (e) The language used in the arbitral proceedings shall be English.

14.4 **Immunity**

- (a) The Borrower agrees that the Borrower and the Borrower's other assets which do not constitute Immuned Property (as defined below) are subject to, and available for, the Proceedings (as defined below) and the Borrower undertakes not to invoke any defense on the basis of sovereign immunity, for itself and/or its other assets which do not constitute Immuned Property with regard to any Proceedings. In addition, the Borrower expressly acknowledges and agrees that this Buyer Credit Loan Agreement constitutes external public debt of Ecuador and that therefore

in accordance with Article 114 of the Law of Financial and Control Administration all revenues of Ecuador back the obligations of the Borrower.

- (b) Notwithstanding the foregoing provisions of Article 14.4(a) or the representation of the Borrower in Article 10.1(h), the following assets of the Borrower, wherever located (the "**Immuned Property**"), shall be entitled to immunity, whether characterized as sovereign immunity, immunity from enforcement or relief pursuant to section 13(2) of the State Immunity Act 1978 or other similar provisions or analogous legislation or otherwise, from any execution on judgment, enforcement of arbitral award, set-off, attachment prior to judgment, attachment in aid of execution to which the Borrower or its assets may be entitled in any legal action or proceedings or arbitral proceedings with respect to this Buyer Credit Loan Agreement or any of the transactions contemplated hereby or under this Buyer Credit Loan Agreement (the foregoing, together with any suit, jurisdiction of any arbitration institution or arbitral tribunal, judgment, arbitral award, service of process upon the Borrower or any agent of the Borrower with respect to this Buyer Credit Loan Agreement or any of the transactions contemplated hereby or under this Buyer Credit Loan Agreement, are collectively the "**Proceedings**"):
- (i) property, including any bank account, which is used or designated for use in the performance of the functions of the diplomatic mission of Ecuador or its consular posts, special missions, missions to international organizations or delegations to organs of international organizations or to international conferences;
 - (ii) aircraft, naval vessels and other property of a military character or used or designated for use in the performance of military functions;
 - (iii) unexploited natural resources in Ecuador;
 - (iv) property forming part of the cultural heritage of Ecuador or part of its archives; or
 - (v) any other asset of Ecuador to the maximum extent protected under the laws of Ecuador in effect on the date hereof.

14.5 **No Reliance by other Persons** The provisions of Article 14.4 have been negotiated and agreed solely with respect to the transactions described in this Buyer Credit Loan Agreement. In no event shall the definition or scope of Immuned Property described in Article 14.4 be relied upon, utilized, admitted as evidence in any proceeding or construed by any third party (including any court, arbitrator or arbitral tribunal) to interpret any analogous provisions of any other agreement or instrument relating to the External Indebtedness or any other indebtedness of the Borrower.

15. Effectiveness

This Buyer Credit Loan Agreement shall become effective on the Effective Date. The Lender shall notify the Borrower of the occurrence of the Effective Date.

The Lender and the Borrower acknowledge that prior to the date of this Buyer Credit Loan Agreement the EPC Contract has already been signed.

16. Miscellaneous

- 16.1 **No Assignment** The Borrower may not assign or transfer any of its rights and obligations under this Buyer Credit Loan Agreement without prior written consent of the Lender.

The Lender may at any time at its own expense (and provided that there shall be no additional or increased costs to the Borrower) assign, transfer or novate any of its rights and obligations under this Buyer Credit Loan Agreement with notice to the Borrower to any commercial bank, insurance company, financial institution or governmental agency that is regulated under the laws of the People's Republic of China or any country which is a member of the Organization of Economic Cooperation and Development. The Borrower shall execute and do all such transfers, assignments, assurances, acts and things as the Lender may require for perfecting and completing the assignment of such rights, benefits and obligations. Upon the transfer becoming effective in this manner, the Lender shall be relieved of its obligations under this Buyer Credit Loan Agreement to the extent that they are transferred to the assignee; and references in this Buyer Credit Loan Agreement to the Lender shall be construed accordingly as references to the assignee lender or the Lender, as relevant. All agreements, representations and warranties made herein shall survive any assignments made pursuant to this Article and shall inure to the benefit of all assignee lenders as well as the Lender.

- 16.2 **No Release** Except as described in Article 6.6, no claim or dispute arising out of or in connection with any other contract or agreement related to the Project shall have any effect upon the obligations of any party hereto under this Buyer Credit Loan Agreement.

- 16.3 **No Waiver, Remedies Cumulative** No failure or delay on the part of the Lender in exercising any right under this Buyer Credit Loan Agreement shall operate as a waiver thereof, nor shall any single or partial exercise by the Lender of any right preclude any other or further exercise thereof, or the exercise of any other right. No waiver by the Lender shall be effective unless it is in writing. The rights and remedies herein provided are cumulative and not exclusive of any other right or remedy provided by law.

- 16.4 **Partial Illegality** If at any time any provision hereof becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of any other provision hereof shall in any way be affected or impaired thereby nor the legality, validity or enforceability of such provision under the applicable law of any other jurisdiction shall in any way be affected or impaired thereby.

- 16.5 **Amendment** Any amendment or waiver of any provision of this Buyer Credit Loan Agreement and any waiver of any default under this Buyer Credit Loan Agreement shall only be effective if made in writing and, in the case of waiver, executed by or on behalf of the party hereto against whom waiver is asserted.

- 16.6 **Communications** Unless otherwise specified herein, all notices, requests, demands and other communications to or upon the parties hereto shall be given or made by registered air mail (or by facsimile promptly confirmed by registered air mail) addressed as follow:

To the Lender:	The Export-Import Bank of China (for the attention of Mr. Xu Zheng, Corporate Banking Department) No. 30, Fu Xing Men Nei Street, Xicheng District Beijing, 100031, China Facsimile: + 8610 8357 8344 Tel: + 8610 8357 8365
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To the Borrower: The Republic of Ecuador represented by The Ministry of
Finance of the Government of the Republic of Ecuador
(for the attention of the Minister of Finance)
Av. 10 de Agosto #162
Quito, Ecuador
Facsimile: + 5932 569 386

or in each case to such other address as any party hereto may designate by written notice to the other party hereto.

Notices, requests, demands or other communication given or made as aforesaid by registered air mail shall be deemed to have been duly given or made ten (10) days after being deposited in the mails and that those given or made by facsimile and confirmed by registered air mail as aforesaid shall be deemed to have been duly given or made when such facsimile is duly received by the recipient.


- 16.7 **Use of English Language** All documents, information and materials to be furnished under this Buyer Credit Loan Agreement shall be either:
- (a) in English; or
 - (b) (unless the Lender otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.
- 16.8 **Insurances.** The Borrower acknowledges that, according to the requirement of the Chinese Government, the Facility shall be covered by an export credit insurance policy to be issued by the Insurance Company and that pursuant to the Insurance Policy, the Insurance Company will have a right of subrogation against the Borrower to the extent of its payment of any claim under the Insurance Policy. Without prejudice to the Borrower's obligations otherwise hereunder, the Borrower shall have no obligation to pay any amount to the Lender or any other person in respect of any premium or fees necessary to procure the Insurance Policy; provided however, upon a request of the Lender, Borrower shall provide reasonable cooperation to the Lender with respect to the Lender's efforts to apply for and obtain the Insurance Policy.
- 16.9 **Abbreviation** This Buyer Credit Loan Agreement may be referred to as "Buyer Credit Loan Agreement, No. 1410202052010210644" for communications between the Borrower and the Lender, as well as in relevant documents.
- 16.10 **Previous agreements.** This Buyer Credit Loan Agreement supersedes all previous memorandum of understandings and letter of intent in relation to the Facility.

IN WITNESS WHEREOF, the Borrower and the Lender, acting through their duly authorized representatives, have caused this Buyer Credit Loan Agreement to be duly executed in duplicate in the English language and executed in their respective names on 3rd June 2010.

THE REPUBLIC OF ECUADOR REPRESENTED BY THE MINISTRY OF FINANCE OF THE GOVERNMENT OF THE REPUBLIC OF ECUADOR

By: 
Patricio Rivera Yanez

Title: Minister of Finance of the Republic of Ecuador



Jorge Glas Espinel

Title: The Coordinator Minister of Strategic Sectors of the Government of the Republic of Ecuador
As Honorary Witness

THE EXPORT-IMPORT BANK OF CHINA

By: 
Zhu Xinqiang

Title: Vice President

	
REPÚBLICA DEL ECUADOR MINISTERIO DE FINANZAS Subsecretaría de Crédito Público	
REGISTRO No.	458
FECHA	8 JUNIO 2010
PAGINA No.	087
Registro de la Deuda Pública	

SIGADE 23158000

Annex A Project Description

The Project's specifications are as follows:

Capitalised terms used in this Annex A but not otherwise defined herein have the respective meanings ascribed to them in the body of this Buyer Credit Loan Agreement.

THE PROJECT:

The Coca Codo Sinclair Hydroelectric Project (the "**Project**"), will consist of a hydroelectric system with a generating capacity of up to 1,500MW (One Thousand and Five Hundred Megawatts). It is being developed in the Napo and Sucumbíos provinces of Ecuador. It is situated on the Coca River, a tributary of the Napo River. The Project is comprised of the following main components: intake works, headrace tunnel, regulating reservoir, two penstocks, powerhouse, transformers cavern, main access tunnel, tailrace tunnel, cables tunnel, switch-yard and control building.

THE PROJECT COMPANY:

Coca Codo Sinclair E.P. (*Compañía Hidroeléctrica Coca Codo Sinclair*) (the "**Project Company**"), is an Ecuadorian company formed on 18 February 2008. The sole shareholder of the Project Company is *Corporación Eléctrica del Ecuador E.P.* ("**CELEC**").

EPC CONTRACT AND EPC CONTRACTOR:

The Project will be built in accordance with the terms of the EPC Contract. The EPC Contract is a contract pursuant to which the EPC Contractor is obligated to perform the engineering, procurement, construction, installation of equipment and start-up of the facilities comprising the Project. The EPC Contractor, Sinohydro Corporation, is a state-owned enterprise of the Chinese government, under the supervision of the State-owned Assets Supervision and Administration Commission of the State Council.

Form 1 Notice of Drawdown

From: The Republic of Ecuador represented by the Ministry of Finance of the Government of the Republic of Ecuador (as Borrower)

To: The Export-Import Bank of China (as Lender)
No. 30, Fu Xing Men Nei Street, Xicheng District, Beijing 100031
People's Republic of China

Date: _____

Dear Sirs,

We refer to the Buyer Credit Loan Agreement No. 1410202052010210644 (hereinafter referred to as the **"Agreement"**) dated [] between the Republic of Ecuador represented by the Ministry of Finance of the Government of the Republic of Ecuador and the Export-Import Bank of China. This is a Notice of Drawdown.

In accordance with Article 4 of the Agreement, we wish to borrow an Advance on the following terms:

Amount: _____ (Currency: US Dollar)

In Word: _____ (Currency: US Dollar)

To Central Bank Specific Account:

Disbursement Date: _____

We hereby confirm that the foregoing payment to the Central Bank Specific Account shall be deemed a drawing made by us under the Agreement and upon your payment pursuant to this Notice of Drawdown; the amount of payment shall forthwith constitute our indebtedness to you accordingly. We shall repay such amount to you together with any interest accrued thereon in accordance with the terms and conditions of the Agreement.

We further confirm that the Repeating Representations remain true and correct as of the date of this Notice of Drawdown.

Terms not otherwise defined herein shall have the meanings assigned to them in the Agreement.

This notice once given shall be irrevocable.

The Republic of Ecuador represented by the Ministry of Finance of
the Government of the Republic of Ecuador

(Official Chop of the Borrower)

(Signature of Authorized Signatory)

Form 2 Repayment Schedule

(Amounts expressed in US\$)

Number of Principal Installments	Repayment Date	Principal Repayment Installment	Interest Payment Date	Interest



Form 3 Legal Opinion of General Legal Coordinator (Coordinador General Juridico) of the Borrower

The Export-Import Bank of China
No. 30, Fu Xing Men Nei Street,
Xicheng District,
Beijing, 100031,
P.R.China

Dear Sirs:

I am General Legal Coordinator of the Ministry of Finance of the Government of the Republic of Ecuador, and submit this legal opinion in connection with the Buyer Credit Loan Agreement dated June 3, 2010 (No. 1410202052010210644, hereinafter referred to as the "Loan Agreement") between The Export-Import Bank of China (hereinafter referred to as the "Lender") and the Republic of Ecuador represented by the Ministry of Finance of the Government of the Republic of Ecuador (hereinafter referred to as the "Borrower").

Unless otherwise defined herein, terms defined in the Loan Agreement shall have the same meanings when used in this opinion.

We have considered and examined all such laws and regulations of Ecuador as are relevant to the Loan Agreement and all such documents, as we have considered necessary or desirable for the opinions hereinafter expressed including, without limitation, the following documents:

- (a) the executed Loan Agreement;
- (b) declaration of priority of the Project by the National Secretariat on Planning and Development of Ecuador (*Secretaria Nacional de Planificación y Desarrollo*), SENPLADES;
- (c) determination of the economic and financial feasibility of the Project by the Ministry of Finance of Ecuador (*Ministerio de Finanzas*);
- (d) approval by the General Attorney's Office of Ecuador (*Procuraduría General del Estado*) for the Borrower's entering into the Loan Agreement and the submission to the arbitration under the Rules;
- (e) registration of the Loan Agreement with the Ministry of Finance of Ecuador;
- (f) registration of the Loan Agreement with the Central Bank of Ecuador (*Banco Central del Ecuador*);
- (g) minutes whereby the Inter-Institutional Financing Committee of Ecuador (*Comité Interinstitucional de Financiamiento*) consents to the Borrower incurring the indebtedness under and to enter into, the Loan Agreement;
- (h) resolution whereby the Financing and Debt Committee of Ecuador (*Comité de Deuda y Financiamiento*) authorizes the Borrower to incur the indebtedness under and to enter into, the Loan Agreement; and

- (i) the legal documentation whereby Mr. Patricio Rivera Yanez has been appointed as Minister of Finance of the Government of the Republic of Ecuador and that as such he has full authority to execute the Loan Agreement on behalf of the Borrower and any other documents presenting all the specimen signatures of the Ministry of Finance or any other officer of the Government of the Republic of Ecuador; and
- (j) other documents we deem necessary for the issuance of our legal opinion.

In giving this opinion, we have assumed and this opinion is given on the basis:

- (a) that all documents listed above other than the Loan Agreement have been duly authorized, executed and delivered by or on behalf of each of the parties thereto other than the Borrower;
- (b) that all signatures, seals and chops are genuine and that all the documents submitted to us as copies conform to its originals;
- (c) that this legal opinion is confined to and given on the basis of the laws of Ecuador to the date hereof. We have not investigated, and we do not express or imply any opinion on, the laws of any other jurisdiction, and we have assumed that no other laws would affect the opinion expressed below;

This legal opinion is based upon the documents listed above as at the date thereof and we have assumed for the purpose hereof that such documents have not been amended, modified as of the date hereof. Based upon the foregoing, we are of the opinion that:

1. the Borrower has full power, authority and legal right to enter into and perform its obligations under the Loan Agreement and has taken all necessary action to authorize the execution, delivery and performance of the Loan Agreement;
2. the Loan Agreement has been duly executed and delivered, for and on behalf of the Borrower, by Mr. Patricio Rivera Yanez, who has the power and authority to do so;
3. the Loan Agreement constitutes legal, valid and binding obligations of the Borrower enforceable in accordance with its terms;
4. the execution, delivery and performance of the Loan Agreement by the Borrower do not and will not violate or conflict with or result in any breach of any provision of any law or regulation of Ecuador and any provisions of any contract or agreement to which the Borrower is a party;
5. all governmental authorizations, approvals, consents and licenses required by the laws of Ecuador for signing, delivery and performance of the Loan Agreement have been duly acquired, effected and completed and are in full force and effect;
6. It is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of the Loan Agreement that it or any other instrument be recorded, registered or enrolled in any court, public office or elsewhere within Ecuador, other than registration of the Loan Agreement with the Ministry of Finance of Ecuador and the Central Bank which has been duly effected as per the documents listed in items (e) and (f) above of the list of documents that I have reviewed;
7. There is no withholding or other tax to be deducted from the payments of principal sums due to be made by the Borrower under the Loan Agreement save that withholding or similar taxes are generally payable or charged in Ecuador on all payments of interest made from Ecuador;

8. With the understanding that the Lender is state owned financial institution, wholly owned and controlled by the People's Republic of China, the Borrower is allowed to make payments of principal and interest and other sums due under the Loan Agreement without any deduction or withholding whatsoever; and no authorization or approval is required for the Borrower to remit such payments in U.S. dollars out of Ecuador;
9. no stamp duty, registration, documentary or similar tax is payable by the Borrower in respect of the Loan Agreement;
10. the payment obligations of the Borrower under the Loan Agreement are and will be direct, unconditional and general obligations of the Borrower and rank at least pari passu with all its other unsecured and unsubordinated External Indebtedness;
11. the execution and performance of the Loan Agreement by the Borrower constitute acts of commercial credit done and performed under the laws of Ecuador and the Borrower and the Borrower's other assets which do not constitute Immuned Property (as defined in the Loan Agreement) are subject to and available for, the Proceedings (as defined in the Loan Agreement);
12. the choice of English laws to govern the Loan Agreement is a valid choice of law;
13. the submission of any dispute arising out of or in connection with the Loan Agreement by the Borrower to the arbitration under the Rules does not contravene any law of Ecuador;
14. any arbitration award given against the Borrower in any such legal actions would be recognized and enforced by the courts of Ecuador; and
15. the Lender is not and will not be deemed to be resident, domicile or having an establishment in Ecuador by reason only of the execution, delivery, performance and/or enforcement of the Loan Agreement.

I assume no obligation to advise you of any changes in the foregoing subsequent to the delivery of this opinion letter. This opinion letter has been prepared solely for your use in connection with the closing under the Loan Agreement of the date hereof.

IN WITNESS WHEREOF, I, the undersigned, have hereunto set my hand on this _____ day of _____, 2010.

Very truly yours,

Name William Vásconez Rubio

Title: General Legal Coordinator (Coordinador General Jurídico), Ministry of Finance of The Republic of Ecuador

Form 4 Withdrawal Report

From: The Republic of Ecuador represented by the Ministry of Finance of the Government of the Republic of Ecuador

[and

Coca Codo Sinclair E.P.]

To: The Export-Import Bank of China
No. 30, Fu Xing Men Nei Street, Xicheng District, Beijing 100031
People's Republic of China

Date: _____

Dear Sirs,

We refer to the Buyer Credit Loan Agreement No. 1410202052010210644 (hereinafter referred to as the "Agreement") dated [] between the Republic of Ecuador represented by the Ministry of Finance of the Government of the Republic of Ecuador and the Export-Import Bank of China. This is a Withdrawal Report.

In accordance with Article 11.1(i) of the Agreement, we notify you that we have made a withdrawal from the Central Bank Specific Account on the following terms:

Amount: _____ (Currency: US Dollar)

In Word: _____ (Currency: US Dollar)

Withdrawal Date: _____

Payee: Sinohydro Corporation

Payee's account: _____

Terms not otherwise defined herein shall have the meanings assigned to them in the Agreement.

The Republic of Ecuador represented by the Ministry of Finance of
the Government of the Republic of Ecuador

(Official Chop)

(Signature of Authorized Signatory)

Coca Codo Sinclair E.P.
(Official Chop)

(Signature of Authorized Signatory)