



## **NON- DISCLOSURE AGREEMENT**

between

**NUCLEAR POWER PRODUCTION & DEVELOPMENT**

and

**KOREA ELECTRIC POWER CORPORATION**

## NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (the "Agreement") is entered into and effective as of \_\_\_\_\_, 2016 (the "Effective Date") between:

(1) Nuclear Power Production & Development Company of Iran (hereinafter referred to as «NPPD») affiliated to Atomic Energy Organization of Iran, headquartered at No.8, Tandis St. Africa Ave., Teheran, Iran, a party designated by the Government of the Islamic Republic of Iran,

(2) Korea Electric Power Corporation, (hereinafter referred to as «KEPCO») headquartered at 55, Jeollyeok-ro, Naju, Jeollanam-do, 520-350, Korea,

and

NPPD and KEPCO are sometimes referred hereinafter to as the "Parties" and, individually, as a "Party". Under the terms of this Agreement either Party may be the Disclosing Party or the Recipient.

### WHEREAS:

(A) The Parties wish to have discussions with a view to evaluate and consider cooperation in the area of nuclear energy and desalination in the Islamic Republic of Iran, participation in projects in the Islamic Republic of Iran and conclusion of Transaction (-s) (as defined below);

(B) Each Party has requested the other Party to provide certain Confidential Information (as defined below) for the sole purpose of evaluating the opportunity cooperation and entering into Transaction (-s);

(C) The Parties now wish to enter into this Agreement; and

(D) Each Party has agreed to provide the Confidential Information to the other Party and the Parties have agreed to hold such Confidential Information in confidence under the terms and conditions of this Agreement;

NOW, THEREFORE, THE PARTIES hereby agree as follows:

1. Unless the context otherwise requires, terms used in this Agreement shall have the following meanings:

"Affiliate" means, in relation to a Party, any Person, which is, directly or indirectly:

- (a) Controlled by such Party; or
- (b) Controls such Party; or
- (c) Under common control with that Party.

For the purpose of this definition, "control" of a Person means the power to direct, administer and dictate policies of such Person, it being understood and agreed that control of a Person can be exercised without direct or indirect ownership of fifty percent (50%) or more of its voting shares, (provided always that direct or indirect control of fifty percent (50%) or more of such voting shares shall be deemed to be effective control.

"Agreement" means this Non-Disclosure Agreement (including the Recitals) as the same may be amended or supplemented from time to time in accordance with the terms of this Agreement.

"Confidential Information" means all information relating to the Transaction itself as well as the business and affairs of the Disclosing Party which are related to the Transaction, including all information, ideas or materials now or hereafter owned by or otherwise in the possession or control of, or otherwise relating to, one Party and/or any of its Affiliates or a confidential nature, including inventions, business or trade secrets, know-how, techniques, drawings, specifications, blueprints, flow sheets, designs, engineering, records, reports, results, maps, charts, strategic plans and other data in written or electronic form, together with all copies, summaries, analyses, or extracts thereof, based thereon or derived therefrom, disclosed by one Party or any of its Affiliates to the other Party or any of its Affiliates or any of their respective Authorized Recipients, but excluding information:

- (a) Which is or becomes available to the public, other than as a result of disclosure to the Recipient or its Representatives in violation of this Agreement; or
- (b) Which becomes available to the Recipient or its Representatives on a non-confidential basis from a source other than the Disclosing Party or its Representatives, provided that such source was not bound by a confidentiality agreement with the Disclosing Party or any of its Representatives or otherwise prohibited from transmitting the Confidential Information to the Recipient or its Representatives by a contractual, legal or fiduciary obligation; or
- (c) Which was known by the Recipient on a non-confidential basis before it is transmitted to the Recipient or its Representatives by the Disclosing Party or its Representatives, provided that:
  - (1) Confidential Information may include information that is subject to confidentiality requirements imposed under agreements between the Disclosing Party and third parties; in this respect, Recipient hereby agrees that disclosure of the same to it may require a prior agreement from it agreeing to be bound to such third parties in accordance with such confidentiality requirements; and
  - (2) Any information obtained by the Recipient as a result of visits of any of the Disclosing Party's property and/or facilities, shall be deemed part of the Confidential Information.



"Disclosing Party" means a Party that has provided Confidential Information to the Recipient or its Representatives under this Agreement.

"Permitted Purpose" means evaluating the possibility of entering into a Transaction, conducting negotiations in connection with a Transaction, preparing documents in connection with a Transaction and implementing a Transaction.

"Person", as used in this Agreement, shall be broadly interpreted to include, without limitation, any individual, corporation, company, group, partnership, governmental or regulatory authority or other entity.

"Recipient" means a Party that has received, directly or Indirectly, Confidential Information from the Disclosing Party or its Representatives under this Agreement.

"Representative" means a director, officer, employee, agent, accountant, lawyer, consultant, legal, technical or financial advisor of a Party, including those retained by a Party for the Permitted Purpose.

"Transaction" means a joint-venture, association, and/or corporation established by one of the Parties where the other Party is hired as contractor or subcontractor, or any other business transaction concerning the Parties' activities.

2. This Agreement is intended to create a relationship of confidence between the Parties with respect to the use and disclosure of Confidential Information.
3. Subject to terms and conditions of this Agreement, each Recipient shall receive, keep, protect and maintain the Confidential Information received from the Disclosing Party or its Representatives in the strictest confidence and shall not, without the prior written consent of the Disclosing Party or except as expressly provided in this Agreement, disclose or use, in any manner whatsoever, in whole or in part, directly or indirectly, such Disclosing Party's Confidential Information for any purpose other than the Permitted Purpose. Notwithstanding the foregoing, each Recipient may, without prior written consent specified above, provide the Confidential Information of the Disclosing Party, to those of its Representatives (i) who need to know the Confidential Information of the Disclosing Party for the Permitted Purpose, (ii) who have been informed of the confidential nature of the Confidential Information of the Disclosing Party and (iii) who agree to be bound by the terms of this Agreement or any other confidentiality agreement on the same basis as the Recipient is bound.
4. Each Recipient shall use its reasonable efforts to minimize the risk of disclosure of Confidential Information of the Disclosing Party by ensuring that discussion of Confidential Information will be limited to its authorized Representatives only. The Recipient shall further require its Representatives to refrain from using the Confidential Information of the Disclosing Party for their own use.

5. Each Recipient shall be responsible for any breach of this Agreement by it or any of its Representatives and agrees to make all necessary efforts to safeguard the Confidential Information of the Disclosing Party from the disclosure to any Person other than as permitted hereby. The Recipient and its Representatives shall safeguard the Confidential Information of the Disclosing Party to the same extent as if it was information of or pertaining to the Recipient, and the Recipient hereby acknowledges that the release, publication or dissemination of the Confidential Information of the Disclosing Party could be harmful to the Disclosing Party. In any event, the Recipient and its Representatives shall not use any Disclosing Party's Confidential Information to the Disclosing Party's detriment.
6. Without the prior written consent of the Disclosing Party, the Recipient shall not, and shall direct its Representatives not to, provide to any other Person that Confidential Information of the Disclosing Party has been made available, that this Agreement has been entered into, that discussion or negotiations are taking place concerning a possible Transaction, any valuations or other studies or opinions which make use of Confidential Information and which relate to a possible Transaction or any of the terms, conditions or other facts with respect to a possible Transaction including the status thereof and the identity of the Parties (or Affiliates thereof) involved.
7. The foregoing obligations of confidentiality, non-disclosure and non-use shall not apply to Confidential Information of the Disclosing Party which the Recipient or its Affiliates are required to provide:
  - (a) By any applicable law, regulation or written and legally enforceable policy, or by the published rules or any mandatory requirements of any stock exchange on which securities of the Recipient or its Affiliates are listed; or
  - (b) By legal process or an order or requirement of a court of competent jurisdiction or government department or agency;

Provided that, in any such case, the Recipient shall provide prompt written notice (or, having regard for urgent circumstances, verbal notice followed by written confirmation) to the Disclosing Party and provide details of the proposed form, nature and purpose of such disclosure. The Recipient shall provide only that portion of the Confidential Information of the Disclosing Party which is legally required or requested and the Recipient shall exercise its best efforts to obtain reliable assurance or undertakings that confidential treatment will be accorded to such Confidential Information by the recipients thereof.

8. If (i) a Party determines that it does not wish to enter into the Transaction or (ii) discussions between the Parties regarding a potential Transaction are terminated for any reason, or (iii) a Disclosing Party so requires, the Recipient shall promptly, upon the Disclosing Party's written request, in any event, within ten (10) business days from the date of receipt of such request, deliver to the Disclosing Party all documents or other materials (and all copies thereof) provided by the Disclosing Party or any of its Representatives to the Recipient or its



Representatives, constituting the Confidential Information of the Disclosing Party, without retaining copies thereof. The Disclosing Party may alternatively, if so requested by the Recipient but at its discretion, require the Recipient to destroy the Confidentiality Information in lieu of returning same. In any event, all documents or records (whether in writing or stored in computerized, electronic, disk, tape, microfilm or any other form) constituting or containing Confidential Information of the Disclosing Party and not returned to the Disclosing Party, will be destroyed or erased, as the case may be, except those documents or other records constituting or containing Confidential Information that have been prepared by the Recipient from publicly available information which may be retained by the Recipient, provided that they remain subject to the terms hereof. Any such destruction shall be certified in writing to the Disclosing Party by an authorized officer of the Recipient supervising such destruction. The return or destruction of the Confidential Information shall not affect the obligation of the Recipient to safeguard and preserve the confidentiality of the Confidential Information of the Disclosing Party in accordance with this Agreement.

9. Neither Party nor any of its Representatives makes any representation or warranty as to the accuracy or completeness of the Confidential Information of the Disclosing Party. The Parties hereby agree that:

(a) They will rely solely on its own analysis and evaluation of the Confidential Information and that it has not been and will not be induced by, and has not relied and will not rely on, any act or omission of the Disclosing Party or of any Representative thereof, to take or fail to take any action in relation to the Permitted Purpose; and

(b) Neither Disclosing Party nor any of its Representatives shall have any liability, direct or indirect, to the Recipient or to any of its Representatives as a result of the use of Confidential Information of the Disclosing Party by the Recipient and only those particular representations and warranties, if any, which may be made to the Recipient in a definitive agreement relating to a Transaction, if, as, and when it is executed, and subject to such Confidential Information of the Disclosing Party and restrictions as may be specified in such definitive agreement, shall have any legal effect.

10. The Parties hereby acknowledge that the Confidential Information is and remains the property of the relevant Disclosing Party. In no event shall the Recipient be deemed, by virtue of this Agreement, to have acquired any right or interest of any kind or nature whatsoever, in or to, the Confidential Information of the Disclosing Party. For greater certainty, each Disclosing Party reserves the right to sell or otherwise dispose of any of its property and/or assets at any time without providing the Recipient with any notice or right of first refusal, and without incurring any liability whatsoever to the Recipient.

11. Each Party acknowledges and agree that:

(a) Any breach of this Agreement will result in irreparable harm to the Disclosing Party and monetary damages may not be an adequate remedy for such breach; and

(b) In the event that the Recipient is suspected to breach or in fact breached any terms of confidentiality obligations under this Agreement and monetary damage may not provide an adequate remedy for such damage suffered by the Disclosing Party, the Disclosing Party is entitled to seek and obtain injunctive or other equitable relief.

12. Each Recipient shall indemnify and hold the relevant Disclosing Party and its Representatives harmless from and against any and all losses, claims, damages, costs and expenses which any of them may incur, or which may be made against any of them, insofar as such losses, claims, damages, costs and expenses arise out of or in relation to or in connection with any breach of the obligations of the Recipient and of its Representatives under this Agreement.

13. This Agreement shall terminate and be of no further force or effect from and after the date which is two (2) years following the Effective Date of this Agreement, without prejudice to any rights of any of the Parties arising from any breach of this Agreement which occurred prior to the date of termination; however, provided that the Parties' obligations of confidentiality under this Agreement will survive the expiration or termination of this Agreement. The term of this Agreement may be extended for another two (2) years of period upon the Parties' mutual consent in writing.

14. The Parties hereby agree that unless and until a definitive agreement between the Parties with respect to the Transaction has been executed and delivered between them, they will not be compelled to continue discussions relating to a Transaction or will be under any legal obligation of any kind whatsoever with respect to a Transaction by virtue of this Agreement or any written or oral expression with respect to a Transaction by any of either Party's Representatives except for the matters specifically agreed to in this Agreement. The Parties further understand, acknowledge and agree that any Disclosing Party (i) may provide Confidential Information of the Disclosing Party to and entertain negotiations with one or more other Persons with a view to concluding a Transaction or conclude a Transaction with such other Person or Persons at any time subject to confidentiality, in its sole discretion and without any obligation whatsoever to the Recipient, (ii) shall not have any obligation to authorize or pursue with the Recipient or any other Person any Transaction, (iii) has not, as of the date hereof, authorized any Transaction and (iv) reserves the right, in its sole and absolute discretion, to reject all proposals (including, for greater certainty, the proposal offering the highest consideration to the Disclosing Party) and to terminate discussions and negotiations with the Recipient at any time.



15. Any notice or other communication to be given in connection with this Agreement must be in writing and given by personal delivery or fax to the following addresses:

For the [NPPD]	Mr.Saeed Fatourechian
Address:	at No.8, Tandis St. Africa Ave., Teheran, Iran,
Att:	Deputy Managing Director for Planning and Development
Fax:	+98 21 22058907
Email:	fatourechian@nppd.co.ir

For the [KEPCO]	Cho, Chunghyun
Address:	55, Jeollyeok-ro, Naju, Jeollanam-do, 520-350, Korea
Att:	Director General, Korea Electric Power Corporation
Fax:	82.61.345-6469
Email:	jojhn@kepco.co.kr

Any notice or other communication so given will be deemed to have been received on the date of actual receipt by the recipient thereof. Any Party may change its address by giving a written notice to the other Party.

16. No failure or delay by a Party in exercising any right, power or privilege under this Agreement will operate as a waiver of that right, power or privilege, nor will any single or partial exercise thereof preclude any other or future exercise of any right, power or privilege hereunder.
17. If any provision of this Agreement is invalid or unenforceable, the invalidity or unenforceability of the provision shall not affect the operation, construction or interpretation of any other provision of this Agreement, with the intent that the invalid or unenforceable provision shall be treated for all purposes as severed from this Agreement.
18. This Agreement contains the entire agreement between the Parties concerning the Confidential Information.
19. This Agreement shall ensure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.
20. No amendment, modification, or other change of or to this Agreement shall be effective unless such amendment, modification or change is in writing, dated, specifically referred to in this Agreement, and signed by both Parties.
21. This Agreement shall be governed and construed in accordance with the substantive laws of England and Wales.



22. Any dispute, controversy or claim arising out of or in connection with this Agreement , or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules, which are deemed to be incorporated by reference into this Article. The number of arbitrators shall be three (3), two of which shall be appointed by either Party and one shall be an independent arbitrator appointed jointly by the Parties. The seat, or legal place of arbitration, shall be Geneva. The language to be used in the arbitral proceedings shall be English.
23. This Agreement may be delivered by fax or email on pdf format and may be executed and delivered in counterparts, each of which, when executed and delivered, will be deemed an original and taken together will constitute one and the same instrument. This Agreement may not be terminated prior to its expiry set forth in clause 15 above, or be modified or may any of its provisions be waived, except by written instrument signed by each of the Parties.
24. The Recipient agrees that for the term of this Agreement and in addition to the other obligations imposed by this Agreement, the Recipient will not solicit, either directly or through any of its Representatives, any of the employees of the Disclosing Party (or of any Affiliate thereof) to accept employment with the Recipient or any of its Affiliates, unless the Disclosing Party grants its written consent to such solicitation, or unless or such employee has been terminated by the Disclosing Party, in each case, prior to the commencement of employment discussions between the Recipient or any Representative thereof, as the case may be, and such employee.
25. For greater certainty, any consent on behalf of the Disclosing Party required or contemplated by this Agreement shall only be valid and binding on the Disclosing Party if such consent is written and signed by a duly authorized officer of the Disclosing Party.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the dare first above written.

By: NPPD

Full name: Dr. Hossein Derakhshandeh

Title: Deputy of chairman for Engineering and Technical

Nuclear Power Production & Development

By: KEPCO

Full name: Lim, Hyun Seung

Title: Vice President

Korea Electric Power Corporation