



ST. CHRISTOPHER AND NEVIS

CHAPTER 5.03 (N)

NEVIS GEOTHERMAL RESOURCES DEVELOPMENT ORDINANCE

Revised Edition

showing the law as at 31 December 2009

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This edition contains a consolidation of the following laws—

NEVIS GEOTHERMAL RESOURCES DEVELOPMENT ORDINANCE

Ordinance 4 of 2008 ... in force

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DEVELOPMENT ORDINANCE**

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CHAPTER 5.03 (N)
NEVIS GEOTHERMAL RESOURCES
DEVELOPMENT ORDINANCE

AN ORDINANCE TO PROVIDE FOR THE RECONNAISSANCE, EXPLORATION, DRILLING, PRODUCTION AND USE OF GEOTHERMAL RESOURCES AND FOR VESTING ALL SUCH RESOURCES IN THE CROWN AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

1. (1) This Ordinance may be cited as the Nevis Geothermal Ordinance.
(2) This Ordinance shall come into force on such date as the Deputy Governor-General may by Proclamation in the *Gazette* appoint.

Declaration.

2. (1) It is hereby declared that all the Geothermal Resources in, or under any Land of whatsoever ownership or tenure are vested in, and are subject to the control of, the Crown.
(2) It is the duty of the Crown to promote the exploration for, and development of, its Geothermal Resources in such a manner as to assure the supply of energy necessary for the economic growth and general welfare of the people of Nevis and to decrease the dependency of Nevis on non-renewable resources.
(3) It is hereby declared to be in the public interest to foster, encourage and promote the discovery, development, production and disposal of Geothermal Resources in Nevis in such manner as will safeguard the natural environment and the public welfare and at the same time will encourage private enterprise to provide the necessary services, financing and technology.

Interpretation.

3. In this Ordinance, unless the context otherwise requires—
“Alien” shall have the same meaning as “alien” as defined in the Alien Land Holding Regulations Act or any Ordinance replacing it;
“Applicant” means a Person applying for a Geothermal Permit, Licence or Concession;
“Application” means a request for a Permit, Licence or Concession, including a modification or renewal of same;
“Application Fee” means the initial fee payable to the Nevis Island Administration by an Applicant for a Geothermal Resources Permit, Licence or Concession, including tender fees the fees payable by an Applicant for a Geothermal Resources Permit, Licence or Concession in order to participate in an open tender procedure;

- “Bore” means an excavation drilled into the ground for the purpose of investigating, prospecting for, obtaining, producing or otherwise providing Geothermal Resources or that taps or is likely to tap Geothermal Energy, and includes any hole in the ground that taps Geothermal Energy;
- “Busbar” means that point in the electrical system prepared to deliver and/or take in electrical energy;
- “Cabinet” means the Cabinet of Ministers of the Nevis Island Administration;
- “Class I” Geothermal Resources means the type of Geothermal Resources capable of being used to generate and otherwise manufacture electrical energy;
- “Class II” Geothermal Resources means the type of Geothermal Resources used for purposes other than to generate and otherwise manufacture electrical energy, including direct heating, agriculture applications and recreational bathing;
- “Commercial Operations” means, for the purposes of this Ordinance, that day that a Concessionaire delivers electric energy to a point for payment pursuant to a Power Purchase Agreement whether that point be a Busbar, a metering point or an interconnection point as long as title to electric energy passes from a Concessionaire to a buyer at that point;
- “Concessionaire” means the Person to whom a Geothermal Resources Concession is granted;
- “Customs Duties”, as that term is used herein, shall include all duties and taxes on imports which are payable as a result of the importation of the Goods under consideration;
- “Document” includes an electronic Document;
- “Expatriate” means a natural individual who is not a citizen of Saint Christopher and Nevis but who resides therein;
- “Fees” means all fees, including the Application, Tender, annual and renewal fees payable to the Nevis Island Administration by an Applicant for, or holder of, a Permit, Licence or Concession;
- “Gazette” means the official publication of the government of Saint Christopher and Nevis;
- “Generation” means, for the purposes of this Ordinance, the production from Geothermal Resources of electrical energy by a power plant;
- “Geothermal By-Products” means all minerals, in solution with other products obtained from naturally heated fluids, brines, associated gasses and steam, in whatever form, found below the surface of the earth;
- “Geothermal Energy” means energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from such natural heat;
- “Geothermal Resources” means the natural heat of the earth. For purposes of this Ordinance, Geothermal Resources include—
- (a) “Geothermal Energy”;
 - (b) “Geothermal By-Products”;
 - (c) “Low-Temperature Geothermal Fluids”; and
 - (d) “High-Temperature Geothermal Fluids”;

- “Geothermal Resources Advisory Committee” or “Committee” means that inter-ministerial advisory body established pursuant to Part III (Geothermal Resources Advisory Committee) of this Ordinance;
- “Geothermal Resources Area” means any Land which is underlain, or reasonably appears to be underlain, by Geothermal Resources and includes any Land where Geothermal Resources have been discovered or which is a source or is believed to be a source of Geothermal Resources and is designated by the Minister as such by notice in the *Gazette* pursuant to section 13 (Declaration of Geothermal Resources Areas) of this Ordinance;
- “Geothermal Resources Compliance Commission” means the public officer or statutory authority designated by the Minister pursuant to section 4 (4) (Responsibility of Minister), of this Ordinance and charged with the authority and responsibility for compliance with this Ordinance and the Regulations issued hereunder;
- “Geothermal Resources Concession” or “Concession” means such authorisation granted in accordance with Part V (Permits, Licences & Concessions), section 27 (Geothermal Resources Concessions for Electricity Generation and Transmission), et. seq., of this Ordinance. Such Concession shall include the licenses contemplated under the provisions of the Electricity Ordinance, Cap. (N);
- “Geothermal Resources Development Promotion Commission” means the public officer or statutory authority designated by the Minister pursuant to section 3(3) (Responsibility of Minister), of this Ordinance and charged with the authority and responsibility for Geothermal Resources development promotion;
- “Geothermal Resources Licence” or “Licence” means such authorisation granted in accordance with Part V (Permits, Licences & Concessions), section 24 (Geothermal Resources Licences), et. seq., of this Ordinance;
- “Geothermal Resources Permit” or “Permit” means such authorisation granted in accordance with Part V (Permits, Licences & Concessions), section 21 (Geothermal Resources Permits), et. seq., of this Ordinance;
- “Goods” means every species of personal property and includes all materials, equipment and supplies, machinery, vehicles, consumable items, movable property, capital equipment whether owned or leased, articles listed in the most recent edition of the Harmonized Tariff Schedule and household goods and personal effects of the Expatriate employees of the Permittee, Licensee or Concessionaire and the immediate family of such Expatriate employees (meaning for the purposes of this Ordinance such employee’s spouse and children) and any other articles to be used primarily in carrying out operations under such Permits, Licences and Concessions;
- “GPS Coordinates” means the standard coordinates produced by the Global Positioning System;
- “Harmonized Tariff Schedule” means the Harmonized Commodities Description and Coding System of the Caribbean Common Market;
- “High-Temperature Geothermal Fluids” means those fluids produced from Geothermal Resources which have a value by virtue of the heat contained therein and have a temperature that is greater than the boiling point of water at

the point (altitude or depth) of the occurrence, including naturally occurring ground water, brines, vapour and gases associated with Geothermal Resources;

“Inspector” means an inspector appointed under section 43 (Appointment of Inspectors) of this Ordinance;

“Known Geothermal Resources Area” means a Geothermal Resources Area in which nearby discoveries, nearby commercial development of Geothermal Energy, the geology, competitive interests or other indicia, which would, in the opinion of the Minister, engender a belief in Persons that the prospects for extraction and production are good enough to warrant expenditures of money for that purpose and is so designated by the Minister as such by notice in the *Gazette* pursuant to section 14 (Declaration of Known Geothermal Resources Areas) of this Ordinance. “Known Geothermal Resources Area” are a sub-category of Geothermal Resources Areas;

“Land” means any land under whatever tenure held and any easement, servitude, right or privilege in or over land and includes land covered with water;

“Licensee” means the Person to whom a Geothermal Resources Licence is granted;

“Low-Temperature Geothermal Fluids” means those fluids produced from Geothermal Resources that have a value by virtue of the heat contained therein and have a temperature that is not less than the boiling point of water at the altitude of the occurrence, including naturally occurring ground water, brines and gases associated with Geothermal Resources;

“Minister” means the Minister to whom responsibility for Geothermal Resources is assigned under Part II (Administration), section 4(1) (Responsibility of Minister) of this Ordinance and, when appropriate in context, the related Ministry;

“Ordinance” means this ordinance except where another specific ordinance is identified in context;

“Permittee” means the Person to whom a Geothermal Resources Permit is granted;

“Person” means any individual, corporation, company, association of individuals, joint venture, partnership, receiver, trustee, guardian, executor, administrator, public agency or other body of one or more individuals, natural or otherwise the subject of legal rights and duties;

“Phase” means, in reference to Geothermal Resources Permits, Licences and Concessions, issued in conjunction with the production of Geothermal Energy—

“Phase I” – Reconnaissance (Geothermal Resources Permits);

“Phase II” – Exploration (Geothermal Resources Permits);

“Phase III” – Drilling (Geothermal Resources Licences);

“Phase IV” – Geothermal Resources Production, (Geothermal Resources Licences);

“Phase V” – Electricity Production (Geothermal Resources Concessions);

“Pollution” means any damage or injury to ground or surface waters, soil or air resulting from the unauthorized loss, escape, or disposal of any substances from any activity subject to the provisions of this Ordinance;

- “Public Utility” means a “public utility” as defined in the Public Utilities Commission Ordinance, Cap. (N) or any Ordinance replacing it;
- “Records” includes existing Geothermal Resources Permits, Licences and Concessions, the Registry, equipment approvals, reports, policy or operational Documents, orders and Documents relating to decisions;
- “Royalty” means all royalties payable to the Nevis Island Administration by the holder of a Concession;
- “Register” means that list maintained by the Minister in accordance with section 42(1) (Registry and Publication) of this Ordinance;
- “Regulations” means the regulations promulgated pursuant to this Ordinance;
- “Special Concessions” or “Special Concessions for Landing Submarine Cables” shall have the meaning as defined in section 28 (Concessions for Landing Submarine Cables) of this Ordinance;
- “Sub-station” is a facility that receives electrical power from an electric power generating facility and transforms such electrical power into a form for use by an end user of electricity, and for purposes of this Ordinance includes a facility that is also an electric power generating facility;
- “Temperature Gradient Holes” means holes drilled expressly for the acquisition of geological or temperature-related data for the purpose of finding and delineating a favourable Geothermal Resources Area prior to the drilling of an exploratory, production or injection Well;
- “Transmission” means, for the purposes of this Ordinance, the transport of electricity over distance by power line or submarine cable from the Busbar in a plant generating electrical power produced and otherwise manufactured from Geothermal Resources to the Busbar in a facility (including a Sub-station) receiving that electrical energy;
- “Well” means any drilled excavation on any Land made for the discovery or production of Geothermal Resources or any other drilled excavation made on a Geothermal Resources Area, including excavations made for the purpose of reinjecting Geothermal Resources.

PART II

ADMINISTRATION

Responsibility of Minister.

4. (1) The Minister responsible for Natural Resources, as representative of the Crown, is charged with designing and applying the national Geothermal Resources policy declared and watching over compliance with this Ordinance, and with promulgating the pertinent guidelines and Regulations. The Minister shall ensure that in the administration of this Ordinance the Geothermal Energy sector in the Crown is regulated.

(2) Without limiting the generality of section 4(1) (Responsibility of Minister)

of this Ordinance, the Minister shall, in particular, have the responsibility and authority—

- (a) to promote investments in Geothermal Resources exploration and exploitation activities;
- (b) to ensure compliance with this Ordinance and the Regulations issued hereunder governing all Phases of Geothermal Resources activities; and
- (c) to promote regional cooperation in, and development of, renewable resources, including Geothermal Resources.

(3) Administration of this Ordinance and the Regulations to be issued hereunder shall be under the principles of—

- (a) multiple use of lands and resources—
 - (i) Geothermal Resources Permits, Licences and Concessions shall, in so far as feasible and in a manner consistent with this Ordinance, allow for coexistence of other rights over the same Lands for deposit of minerals and the use of water, under the laws applicable to them, and for the location and production of claims under the Mineral Vesting Act CAP. 183 and the Watercourses and Waterworks CAP. 185 or any Ordinances replacing them, and for other uses of the areas covered by them; and
 - (ii) operation under such other laws shall not unreasonably interfere with or endanger operations under any Permits, Licences and Concessions issued pursuant to this Ordinance nor shall operations under this Ordinance unreasonably interfere with or endanger operations under such other laws.
- (b) Cooperative unit operation—
 - (i) Geothermal Resources Licences and Concessions shall, in so far as feasible, protect Geothermal Resources from unreasonable waste; and
 - (ii) to that end shall ensure that Licensees and Concessionaires in separate properties of the same producing or prospective Geothermal Resources Area, cooperate in the development and operation of adjacent Geothermal Resources Areas.

(4) To ensure that the objectives of promotion and compliance are kept separate and distinct, the Minister shall designate one public officer as having the authority and responsibility for Geothermal Resources Development Promotion and a separate public officer as having the authority and responsibility for Geothermal Resources Development Compliance.

Duties of Geothermal Resources Development Promotion Commission.

5. The officer charged with the authority and responsibility for Geothermal Resources Development Promotion shall be known as the Geothermal Resources Development Promotion Commission and—

- (a) shall actively promote an understanding of the value of The Geothermal Resources of Nevis within the commercial and public utility sectors, and within the general public;

- (b) shall identify all potential sources of investment in Geothermal Resources, public and private, foreign and domestic and shall promote investment in the exploration and exploitation of the Geothermal Resources of Nevis;
- (c) shall, as directed by the Minister, negotiate or assist the Minister in negotiating, the terms of all Geothermal Resources Permits, Licences and Concessions with all prospective investors in Geothermal Energy in a manner consistent with this Ordinance and the Regulations issued hereunder;
- (d) shall assist prospective investors in Geothermal Resources in identifying and expeditiously completing, consistent with the laws and regulations of Nevis, all other applicable authorisations and regulatory requirements;
- (e) shall consult with the national stakeholders, including local officials, religious leaders, nongovernmental organizations and affected residents, as appropriate, to address the basic demands and necessities of the communities hosting Geothermal Resources Areas, Geothermal Energy projects and power plants producing steam and electricity for Geothermal Energy;
- (f) shall consult with Permittees, Licensees and Concessionaires to orient these Persons in their relationship with host communities;
- (g) shall coordinate Class I and Class II Applications in Geothermal Resources Areas; and
- (h) shall report to the Minister in the discharge of all duties set forth in this Ordinance.

Duties of Geothermal Resources Compliance Commission.

6. The officer charged with the authority and responsibility for Geothermal Resources Development Compliance shall be known as the “Geothermal Resources Compliance Commission” and—

- (a) shall administer and enforce the provisions of this Ordinance and the Regulations issued hereunder in such a manner as to prevent damage to and waste from underground geothermal deposits, and to prevent damage to underground and surface waters, Land or air that may result from improper drilling, operation, maintenance or abandonment, and to prevent negative impacts on the property and Persons adjacent to the Geothermal Resources Areas;
- (b) shall monitor and ensure compliance with all Geothermal Resources Permits, Licences and Concessions issued hereunder;
- (c) shall review all Geothermal Resources Permits and Licences and Concessions pursuant to the Regulations of this Ordinance and monitor the progress of all Persons holding such Permits, Licences and Concessions with a view to facilitating the successful development of Geothermal Resources;
- (d) shall, as directed by the Minister and in consultation with the Permanent Secretary of Finance, administer the collection of all bonds and royalties due under this Ordinance pursuant to section 48 (Bonding) and section 50 (Assessment of Annual Royalties) of this

Ordinance, and administer the collection of all Fees due under this Ordinance pursuant to section 49 (Assessment of Application and Annual Fees) of this Ordinance; and

- (e) shall report to the Minister in the discharge of all duties set forth in this Ordinance.

Powers of the Minister.

7. (1) The Minister may, on Application, grant—
- (a) a Permit for Class I Geothermal Resources negotiated on the basis of Article 1 of the Model Geothermal Resources Contract set out in the First Schedule (Model Geothermal Resources Contract) of this Ordinance;
 - (b) a Licence for Class I Geothermal Resources negotiated on the basis of Article 2 of the Model Geothermal Resources Contract set out in the First Schedule (Model Geothermal Resources Contract) of this Ordinance;
 - (c) a Concession for Class I Geothermal Resources negotiated on the basis of Article 3 of the Model Geothermal Resources Contract set out in the First Schedule (Model Geothermal Resources Contract) of this Ordinance;
 - (d) in appropriate circumstances, including an Application based on competitive bidding pursuant to section 34 (Competitive Bidding) of this Ordinance, a Class I Geothermal Resources Permit/Licence/Concession and Class II Geothermal Resources Concession, integrated into a single instrument;
 - (e) a Concession for Class II Geothermal Resources as may be prescribed by the Regulations issued hereunder; or
 - (f) Special Concession for Landing Submarine Cables as may be prescribed by the Regulations issued hereunder:

PROVIDED, however, that the Minister has first received the affirmative recommendation of the Geothermal Resources Advisory Committee pursuant to Part III (Geothermal Resources Advisory Committee) of this Ordinance, and the subsequent approval of the Cabinet.

(2) Geothermal Resources Permits, Licences and Concessions granted under this Ordinance shall be deemed property rights and shall be recorded as a public deed within a time period not greater than thirty (30) calendar days after the issuance of a Permit, Licence or Concession, which Permit, License or Concession shall be published in the *Gazette*.

(3) Where the Minister fails to grant a Permit, Licence or Concession he shall give the Applicant reasons for that decision in writing.

(4) In the exercise of his powers under this Ordinance the Minister shall consult with the Geothermal Resources Advisory Committee.

(5) The Permit, Licences and Concessions set out in the First Schedule (Model Geothermal Resources Contract) of this Ordinance are model formats and the Minister may amend and vary the format at his discretion. Notwithstanding the foregoing, the Minister may by order published in the *Gazette* amend, vary or suspend the prescribed format of said Permits, Licences and Concessions.

PART III

GEOTHERMAL RESOURCES ADVISORY COMMITTEE

Appointment and Constitution of Geothermal Resources Advisory Committee

8. (1) There is established an interagency organization under the general direction and control of the Minister to be known as the “Geothermal Resources Advisory Committee”.

(2) The Geothermal Resources Advisory Committee shall be the principal national policy forum for considering Renewable Energy, policies and for coordinating those policies among various government agencies.

(3) The Committee shall consist of those cabinet ministers or their designees identified in section 9 (Qualifications and Tenure of Committee Members) of this Ordinance. Designees of any member of the Committee shall be drawn from their respective ministries and shall be designated by that member by an instrument in writing to serve on such terms and conditions as such member may specify.

(4) The Minister shall serve as the Chairperson.

Qualifications and Tenure of Committee Members.

9. (1) The Committee shall be composed of the following members or their designees—

- (a) the Minister, who shall be Chairperson;
- (b) the Minister responsible for Finance of the Nevis Island Administration;
- (c) the Minister responsible for Lands of the Nevis Island Administration;
- (d) the Legal Advisor; and
- (e) the Minister responsible for Physical Planning of the Nevis Island Administration.

(2) The Geothermal Resources Development Promotion Commission, the Geothermal Resources Compliance Commission and two public representatives, one from the business community and one from the conservation community, both appointed by the Premier, shall serve as ex officio members of the Committee.

(3) Such other persons, including non-governmental consultants, as the Minister may from time to time designate, shall be invited to attend meetings pertaining to their responsibility.

Functions of the Committee.

10. The functions of the Committee are—

- (a) to advise the Minister on the formulation of national Policy on renewable energy matters in general and Geothermal Resources matters in particular, with a view to ensuring the efficient, economic and harmonised development of the renewable resources of the Crown;
- (b) to assist and make recommendations to the Minister with respect to expediting the development and implementation of the renewable

resources policies and objectives of Nevis including, but not limited to, Geothermal Resources;

- (c) to advise the Minister with respect to other major policy areas outside the energy policy area that may significantly affect the development of the Geothermal Resources of Nevis;
- (d) to assist the Minister in creating such mechanisms whereby the inter-government approval processes required under this Ordinance may be facilitated;
- (e) to assist and make recommendations to the Minister with respect to formulating and issuing geothermal Resources contracts, Permits, Licences and Concessions;
- (f) to monitor and ensure that the holders of Permits, Licences and Concessions comply with the conditions attached thereto;
- (g) to provide the Minister with such information as requested from time to time;
- (h) to assist and advise the Minister with respect to regional cooperation in, and development of, Geothermal Resources, and to undertake in conjunction with other institutions and entities where practicable, training, manpower planning, seminars and conferences in areas of national and regional importance in renewable energy resources;
- (i) to advise and assist the Minister in retaining such professional expertise as may from time to time be required to formulate the most appropriate advise, assistance and monitoring prescribed in this section 10 (Functions of the Committee) and section 11 (Powers of the Committee) of this Ordinance;
- (j) to assist and advise the Minister in the formulation and negotiations of agreements initiated in conjunction with this Ordinance;
- (k) to assist the Minister in negotiations; and
- (l) to ensure—
 - (i) open entry, market liberalisation and competition in the development of Geothermal Energy;
 - (ii) the introduction of advanced technologies and an increased range of services;
 - (iii) that the public interest and national security are preserved;
 - (iv) the application of appropriate standards in the operation of geothermal facilities; and
 - (v) the overall development of Geothermal Resources in the interest of the sustainable development of Nevis;
- (m) to perform such other functions as may be prescribed by the Minister.

Powers of the Committee.

11. (1) The Committee may do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of section 11(1) (Powers of the Committee) of this Ordinance, the Committee may—

- (a) analyse the appropriateness of different private generation options;
- (b) promote complementary private generation of electricity as a means of ameliorating possible electric power crises, including, but not limited to, such organizational options as “Build-Own-Operate-Transfer”;
- (c) analyse options for establishing purchase prices and respective contract terms;
- (d) promote an educational and publicity campaign to encourage the private generation of electricity from Geothermal Resources;
- (e) engage in public education regarding geothermal resources;
- (f) analyse studies on related subjects submitted for their consideration; and
- (g) recommend to the Minister Actions to be taken with reference to these matters.

Annual Report.

12. (1) The Committee shall submit annually to the Minister not later than October 31st of each calendar year a report that includes—

- (a) an assessment of the state of the development of Geothermal Resources, and its impact and significance for the development of the Crown;
- (b) a description of the Activities undertaken by the Committee; and
- (c) such other matters as the Minister may prescribe.

(2) The Minister shall cause a copy of a report submitted under section 12(1) (Annual Report) of this Ordinance, to be laid before the Cabinet within twenty-eight (28) days of its receipt by the Minister.

PART IV

GEOHERMAL RESOURCES AREAS

Declaration of Geothermal Resources Areas.

13. The Minister shall, by notice in the *Gazette*, declare that any area of Land believed to be a source of Geothermal Resources is designated as a “Geothermal Resources Area”. In establishing the physical parameters of a Geothermal Area, in addition to the considerations set forth in this Ordinance, the Minister shall take into account—

- (a) the known geological, geochemical and geophysical characteristics of the Geothermal Resources;
- (b) the existing and potential uses of the Land which overlays the Geothermal Resources;
- (c) the ownership of the Land which overlays the Geothermal Resources; and

- (d) the facilitation of surveying the Land and describing the Land to be designated.

Declaration of Known Geothermal Resources Areas.

14. The Minister shall, by notice in the *Gazette*, declare that any area of Land where Geothermal Resources have been discovered or where nearby discoveries, nearby commercial development of Geothermal Energy, geology, competitive interests, or other indicia engender a belief in developers that the prospects for extraction and production are good enough to warrant expenditures of money for that purpose, is designated as a “Known Geothermal Resources Area”.

Establishment of Geothermal Resources Areas.

15. (1) The configuration of a Geothermal Resources Area or a Known Geothermal Resources Area shall be described as a geometric figure limited by GPS Coordinates.

(2) Each Geothermal Resources Area shall be of such size as may be set forth in the Regulations made pursuant to section 69 (Regulations) of this Ordinance. The area included in such Geothermal Resources Area shall include the Land limited by the perimeter of a square or rectangle whose vertices are referred to in GPS Coordinates, except where departure therefrom is occasioned by the irregularity of a natural configuration such as a coastline. The boundaries of such configurations may serve to describe the relevant part of a Geothermal Resources Area.

Subdivisions of Areas.

16. For the purposes of issuing Permits, Licences and Concessions pursuant to Part III (Geothermal Resources Advisory Committee) of this Ordinance, a Geothermal Resources Area or a Known Geothermal Resources Area may be subdivided into smaller tracts at the discretion of the Minister.

PART V

PERMITS, LICENCES AND CONCESSIONS

Phases Addressed by Permits, Licences and Concessions.

17. Geothermal Resources Permits, Licences and Concessions issued in connection with the production of Geothermal Energy shall comprise five (5) Phases, as follows—

- (a) Phase I – Reconnaissance. Reconnaissance is an activity that determines by visual observation of the geology and by geochemical studies whether any Land may be a source of Geothermal Resources. Reconnaissance Activities have minimal impact on the environment of the Land;
- (b) Phase II – Exploration. Exploration is an activity that demonstrates the dimensions, position, characteristics and extent of Geothermal Resources by geological, geochemical and geophysical studies and surveys including the drilling of shallow Temperature-Gradient Wells. Temperature-Gradient Wells in the exploration stage may not be drilled deeper than one hundred and fifty (150) meters in depth

without a safety certification from the Ministry as set forth in the Regulations issued pursuant to this Ordinance;

- (c) Phase III – Drilling. Drilling is an operation in which a Well is drilled for the discovery of Geothermal Resources or for the production of Geothermal Resources or for the injection of Geothermal Resources or the residue thereof. It includes drilling, re-drilling, and deepening of Wells drilled for temperature-gradient monitoring purposes and for production purposes;
- (d) Phase IV – Geothermal Resources Production. Geothermal Resources Production is that activity that enables the supply of Class I Geothermal Resources to a power plant so that electricity can be produced from such Geothermal Resources; and
- (e) Phase V – Electricity Production. Electricity Production is an operation in which electricity is generated from Geothermal Resources using power turbine generators.

Permits, Licences and Concessions for Class I Geothermal Resources.

18. (1) In execution of the power of the Minister set forth in section 7 (Powers of the Minister) of this Ordinance, the Minister shall establish and issue such Permits, Licences and Concessions for Class I Geothermal Resources as shall encourage the development of Geothermal Resources within or outside of any designated Geothermal Resources Area in such a manner as is consistent with the national Geothermal Resources policy.

(2) Permits, Licences and Concessions for Class I Geothermal Resources shall be awarded only—

- (i) to a Person registered under the Companies Ordinance, Cap. (N);
or
- (ii) to a public officer acting on behalf of the Crown, with the exception of public officers engaged in the administration of this Ordinance as set forth in section 62(3) (Public Servants and Institutions Conflicts of Interest) of this Ordinance; or
- (iii) to an agent of the Crown.

(3) Permits, Licences and Concessions issued to Persons registered under the Companies Ordinance shall be valid only for such time as that Person is in compliance with the Companies Ordinance.

Concessions for Class II Geothermal Resources.

19. (1) In execution of the power of the Minister set forth in section 7(1) (Powers of the Minister) of this Ordinance, Geothermal Resources Concessions may be established whereby the Minister may, on Application being made to him in respect of any Land, authorise any Person who applies to develop and use Class II Geothermal Resources of economically developable quantity, the long-term right to use such Resources in such a manner as is consistent with the national Geothermal Resources policy and under such terms and conditions as are set forth in this Ordinance and the Regulations issued hereunder.

(2) Concessions for Class II Geothermal Resources may be awarded to any Person, provided however that if such Person is an Alien, that Alien has been granted

a licence to hold land pursuant to the Alien Land Holding Regulations Act, CAP. 102.

(3) Concessions for Class II Geothermal Resources shall be valid only for such time as the licence to hold land is valid.

(4) Except where Class II Geothermal Resources are specified in a section of this Ordinance or the Regulations issued hereunder, this Ordinance applies exclusively to the governance of Class I Geothermal Resources.

(5) Concessions for Class I Geothermal Resources may also include Concessions for Class II Geothermal Resources.

Relationship among Permits, Licences and Concessions.

20. (1) Geothermal Resources Permits issued for Phase I reconnaissance activities in a designated Geothermal Resources Area, Known Geothermal Area or other Land on which Geothermal Resources may be located may be issued on a non-competitive, non-exclusive basis or on a competitive, exclusive basis or on a non-competitive, exclusive basis.

(2) Phase I Permits issued on a competitive, exclusive basis may be automatically convertible to Geothermal Resources Permits for Phase II exploration activities that, in turn, may be automatically convertible into an exclusive Geothermal Resources Licence.

(3) Phase I Permits issued on a non-competitive, nonexclusive basis or on a non-competitive, exclusive basis are not automatically convertible to Geothermal Resources Permits for Phase II exploration activities.

(4) Notwithstanding the provisions of subsections (1), (3) and (3)—

- (a) the holder of a Phase I Permit in a designated Geothermal Resources Area or other Land other than a Known Geothermal Area shall have a preference in obtaining a Phase II noncompetitive, exclusive Permit that may be converted automatically into a non-competitive, exclusive Licence provided Permittee exercises such preference by submitting an Application in accordance with section 33 (Application Procedure) of this Ordinance, not later than thirty (30) days after the expiration of such Permit, or the preference shall expire;
- (b) if a Person files an Application for a noncompetitive Phase I Permit (or Licence) on any Land and if that Permit (or Licence) is granted and if that Land is subsequently reclassified and designated a Known Geothermal Resources Area during the effective period of such Permit, such Person, on a non-competitive exclusive basis, shall be granted a Phase II Permit that, in turn, may be automatically convertible into an exclusive Geothermal Resources Licence, if it is otherwise qualified in accordance with the guidelines set forth pursuant to section 69(3) (n) (Regulations) of this Ordinance, provided such Permittee exercises such preference by submitting an Application in accordance with section 33 (Application Procedure) of this Ordinance, not later than thirty (30) days after the expiration of such Permit, or the preference shall expire.

(5) Geothermal Resources Permits issued for Phase II exploration activities in a designated Geothermal Resources Area or other Land on which Geothermal Resources may be located may be issued on a non-competitive, non-exclusive basis

or on a competitive, exclusive basis, or, provided that such Area is not a Known Geothermal Resources Area, on a non-competitive, exclusive basis.

(6) Geothermal Resources Permits issued for Phase II exploration activities in a designated Known Geothermal Resources Area shall be issued only on a competitive, exclusive basis.

(7) Geothermal Resources Licences for activities in a designated Known Geothermal Resources Area shall be issued only on a competitive, exclusive basis.

(8) Those Geothermal Resources Permits, Licence and Concessions issued on a competitive basis to Applicants that are Persons registered under the Companies Ordinance shall be issued on an exclusive basis.

(9) Such Permits, issued to Persons registered under the Companies Ordinance on an exclusive basis may be automatically converted to Licences in accordance with the terms and conditions of that Permit, this Ordinance and the Regulations issued hereunder, and Licences so issued, may be automatically converted into Concessions in accordance with the terms and conditions of that Licence.

(10) Permits, Licences and Concessions issued to public officers or agents of the Crown may be issued on an exclusive basis but shall not be automatically so converted.

(11) Under circumstances in which the Nevis Island Administration has itself invested developmental monies in a Geothermal Resources Area or a Known Geothermal Resources Area, the Minister in issuing, or negotiating the terms of, Permits, Licences and Concessions shall be mindful of the need for the Administration to recover its investment through Royalties or some other mutually agreeable financial mechanism.

(12) Under circumstances in which private-sector Persons have invested developmental monies in a Geothermal Resources Area or a Known Geothermal Resources Area, the Minister in issuing, or negotiating the terms of, Permits Licences and Concessions shall be mindful of the need for such Persons to make a reasonable return on their investment.

(13) Under circumstances in which a Geothermal Resources Area or a Known Geothermal Resources Area contains both Class I and Class II Geothermal Resources, the Minister may issue Concessions for the development of Class II Geothermal Resources to Persons other than the holders of Permits, Licences, or Concessions for development of Class I resources as well as to such Class I holders; however, in such circumstances, the development of Class I Geothermal Resources is declared to be in the interest of the Crown, and the holder of the Class II Permit, Licence or Concession shall hold harmless the holder of the Class I Permit, Licence or Concession if and to whatever extent the development of Class I Geothermal Resources affects the Class II Geothermal Resources.

(14) Permits, Licences and Concessions may extend to a part or the whole of a Geothermal Resources Area or Known Geothermal Resources Area under such terms and conditions as are set forth in this Ordinance and the Regulations issued hereunder.

(15) The Minister may issue multiple Permits, Licences and Concessions to a Person, covering more than one Geothermal Resources Area or Known Geothermal Resources Area.

Geothermal Resources Permits.

21. (1) Geothermal Resources Permits may be issued in the format set out in the First Schedule (Model Geothermal Resources Contract) of this Ordinance, whereby the Minister may, on Application being made to him in respect of any Land, authorise any Person listed in section 18(2) (Permits, Licences and Concessions for Class I Geothermal Resources) of this Ordinance, to engage in Phase I and Phase II activities.

(2) A Geothermal Resources Permit granted under this Ordinance for the purposes of Geothermal Energy Development shall authorize the Permittee to carry out—

- (a) the operations needed for Phase I Geothermal Resources reconnaissance; and/or
- (b) the operations needed for Phase II Geothermal Resources exploration.

Rights of Permittees.

22. (1) A Permit granted under this Ordinance shall confer upon the Permittee the right to enter the Land in a Geothermal Resources Area that is the subject of such Geothermal Resources Permit for the purposes of reconnaissance or exploration and to do all such things as are reasonably necessary for and in connection with such reconnaissance or exploration.

(2) In so far as it may be necessary for, and in conjunction with, the operations referred to in this section, the Permittee, for the term of the Permit, shall have the right—

- (a) to make surveys, investigations, tests and measurements in search of Geothermal Resources;
- (b) to enter upon any Land specified in such Permit with such assistance and equipment as it thinks fit;
- (c) to make geological and geochemical surveys on the Land if a Phase I Permit is issued; and
- (d) to make geophysical surveys and drill shallow Temperature Gradient Wells if a Phase II Permit is issued.

(3) Such Permit may be issued for ingress and egress on any Term of Permits. Land whether or not that Land is a designated Geothermal Resources Area.

Term of Permits.

23. (1) Geothermal Resources Permits issued under this Ordinance shall be in force for an initial period of not less than two (2) years from the date of issue, but on Application granted by the Minister of expiration thereof or from the expiration of any previous renewal.

(2) Within the terms of any Permit granted pursuant to this Ordinance and the Regulations issued hereunder, the Minister shall authorize any Permittee except a public officer or an agent of the Crown who has been awarded the Permit through an open tender, the right automatically to convert the Permit into a Licence.

Geothermal Resources Licences.

24. (1) Geothermal Resources Licences may be issued in the format set out in the First Schedule (Model Geothermal Resources Contract) of this Ordinance, whereby

the Minister may, on Application being made to him in respect of any Land, authorize any Person listed in section 18(2) (Permits, Licences and Concessions for Class I Geothermal Resources) of this Ordinance, to engage in Phase III and Phase IV activities.

(2) A Geothermal Resources Licence granted under this Ordinance, for the purposes of Geothermal Energy development shall authorize the Licensee to carry out—

- (a) a continuation of the operations needed for Phases I and II;
- (b) the operations needed for Phase III Geothermal Resources drilling; and
- (c) the operations needed for Phase IV Geothermal Resources steam production.

Rights of Licensees.

25. (1) A Licence granted under this Ordinance shall confer upon the Licensee the right to enter the Land in a Geothermal Resources Area that is the subject of such Geothermal Resources Licence for the purposes of drilling or production and to do all such things as are reasonably necessary for and in connection with such drilling or production.

(2) In so far as it may be necessary for and in connection with the operations referred to in this section, the Licensee shall, for the term of the Licence, have the right—

- (a) to drill and construct all necessary Bores;
- (b) to erect, construct and maintain temporary housing and buildings for Licensee's own use and for use by the employees of the Licensee;
- (c) to erect, construct and maintain plant, machinery, buildings and other erections as may be necessary;
- (d) to utilize the Geothermal Resources;
- (e) to reclaim, utilize and reinject any Geothermal fluids, including water;
- (f) to utilize spent fluids exiting from a power plant for non-electrical purposes;
- (g) to construct and maintain Roads and other means of communications and conveniences;
- (h) to reclaim and utilize any Geothermal By-Products; and
- (i) to take and use or apply the Geothermal Resources for any purpose specified in the Geothermal Resources Licence.

Term of Licences.

26. (1) Geothermal Resources Licences issued under this Ordinance shall be in force for an initial period of not less than five (5) years from the date of issue, but on Application granted by the Minister may be renewed for successive two (2) year periods of from the date of expiration thereof or from the expiration of any previous renewal.

(2) Within the terms of any Licence granted pursuant to this Ordinance and the Regulation issued hereunder, the Minister shall authorize any Licensee—

- (a) who discovers Class I Geothermal Resources of economically developable quantity the long-term right to produce steam under such terms and conditions as are set forth in this Ordinance and the Regulations of this Ordinance; and
- (b) except a public officer or an agent of the Crown who discovers a Class I Geothermal Resources, the right automatically to convert the Licence into a Concession for electricity production as set forth in section 27 (Geothermal Resources Concessions for Electricity Generation and Transmission) of this Ordinance.

Geothermal Resources Concessions for Electricity Generation and Transmission.

27. (1) Geothermal Resources Concessions may be issued in the format set out in the First Schedule (Model Geothermal Resources Contract) of this Ordinance, whereby the Minister may, on Application being made to him in respect of any Land, authorize any Licensee who discovers Class I Geothermal Resources of economically developable quantity, a Geothermal Resources Concession authorizing the long-term right to generate and transmit electricity under such terms and conditions as are set forth in such Concessions, this Ordinance and the Regulations issued hereunder.

(2) Provided that a Concession has been issued by the Minister to the party generating electricity—

- (a) generation of electricity from Geothermal Resources is not a violation of the Electricity Ordinance, Cap. (N) provided that the electricity and electric power generated from Geothermal Resources is supplied to the electric utility designated in the Electricity License under the Electricity Ordinance, or is exported by a Concessionaire to a customer of the Concessionaire outside the territory of Saint Christopher and Nevis;
- (b) transmission of electricity from Geothermal Resources is not a violation of the Electricity Ordinance provided that the electricity is transmitted to the electric utility designated in the Electricity License under the Electricity Ordinance or is transmitted for exportation to a customer outside the territory of Saint Christopher and Nevis.

(3) A Geothermal Resources Concession granted under this Ordinance, for the purposes of Geothermal Energy development shall authorize the Concessionaire to carry out—

- (a) the operations needed for Phase IV Geothermal Resources steam production;
- (b) the operations needed for Phase V Geothermal Resources electricity generation and transmission.

Concessions for Landing Submarine Cables.

28. (1) Special Concessions (as distinguished from Geothermal Resources Concessions) may be established in the format set out in the Second Schedule (Model Special Concessions) of this Ordinance, whereby the Minister may, on Application being made to him, authorise any Person to land and the Long term right to operate submarine cables within the territory of the Crown for the purpose of transmitting electricity generated from Geothermal Resources in a manner as is consistent with the national Geothermal Resources policy and under such terms and conditions as are set forth in this Ordinance and Regulations issued hereunder.

(2) Except where Special Concessions for Landing Submarine Cables are specified in a section of this Ordinance or the Regulations issued hereunder, this Ordinance applies exclusively to the governance of Class I Geothermal Resources Concessions and, where so specified, Class II Geothermal Resources Concessions.

Rights of Concessionaires.

29. (1) A Geothermal Resources Concession granted under this Ordinance shall confer upon the Concessionaire the right to enter the Land in a Geothermal Resources Area that is the subject of such Geothermal Resources Concession for the purposes of generating and transmitting electrical power from Geothermal Resources and to do all such things as are reasonably necessary for and in connection with such generation or transmission.

(2) In so far as it may be necessary for and in connection with the operations referred to in this section, the Concessionaire shall have the right—

- (a) to extract, take, use and apply Geothermal Resources on or under any Land that is the subject of the Geothermal Resources Concession; and
- (b) to erect, construct, provide and use such works and appliances as may be necessary for the purpose of generating electricity and in connection with the transmission, use, supply and sale of electricity.

Term of Concession.

30. Geothermal Resources Concessions issued under this Ordinance shall be in force for a period of twenty five (25) years from the date of issue, but on Application granted by the Minister may be renewed for successive periods of five (5) years from the date of expiration thereof or from the expiration of any previous renewal.

Concession Not Deemed a Public Utility.

31. Neither a Geothermal Resources Concession nor a Special Concession for Landing Submarine Cables shall be deemed a Public Utility or regulated as such.

Power Purchase Agreement.

32. The Minister shall use his or her good offices to assist Permittees, Licensees and Concessionaires in negotiating a Power Purchase/Power Sales Agreement if so requested in writing.

PART VI

COMPLIANCE AND MANAGEMENT

Application Procedure.

33. (1) An Applicant for a Permit, Licence and Concession shall submit its Application in the prescribed form to the Geothermal Resources Development Promotion Commission for consideration, together with the prescribed Application Fees established pursuant to section 51 (Fees and Royalty Payments) of this Ordinance.

(2) The Geothermal Resources Development Promotion Commission shall verify that an Application is in proper form and complete.

(3) Upon receipt of an Application, the Geothermal Resources Promotion Commission shall initiate due diligence inquiries. Due diligence, at a minimum, shall include verification by knowledgeable third parties of the Applicant's financial status, technical competence and experience as a Geothermal Resources developer.

(4) No later than twenty (20) calendar days after receipt of an Application that is deemed by the Geothermal Resources Promotion Commission to be in proper form and complete, the Geothermal Resources Promotion Commission shall transmit the Application with the Commission's recommendation, noting the status of due diligence inquiries, to the Committee for its review.

(5) Within ten (10) calendar days after receipt of an Application that is deemed by the Geothermal Resources Promotion Commission either to be in improper form or incomplete, the Geothermal Resources Promotion Commission shall transmit to the Applicant a notice of actions required for cure or correction.

(6) On receipt of the recommendation from Geothermal Resources Development Promotion Commission, the Advisory Committee shall within thirty (30) calendar days after the receipt of the Commission's recommendation, transmit the Application together with the Committee's recommendation to the Minister for consideration of the grant of such Permit, Licence or Concession.

(7) On receipt of the recommendation from the Committee, the Minister shall, not later than thirty (30) calendar days after receipt of the Committee's recommendation—

- (a) if the Committee's recommendation is not an affirmative recommendation—
 - (i) deny the application; or
 - (ii) provide the Applicant a notice of actions that may be taken to cure deficiencies; or
 - (iii) advise the Applicant that the decision shall be delayed until due diligence undertakings have been completed;
- (b) when and if cure and due diligence under this section 33(7)(a) (Application Procedure) of this Ordinance, are satisfactory the Minister shall take the actions prescribed in section 33(7)(c);
- (c) if the Advisory Committee's recommendation is an affirmative recommendation—
 - (i) notify the Applicant that its Application has been found satisfactory and may be approved subject to negotiation of the terms and conditions set forth in the First Schedule (Model Geothermal Resources Contract) of this Ordinance; and
 - (ii) establish a negotiation schedule.

(8) The Minister shall advise the Cabinet of the recommendations of the Advisory Committee, of all actions taken with regard to approval or disapproval of Applications, of the results of due diligence inquiries, and of the progress of all negotiations.

(9) The Minister shall submit to Cabinet all Permits, Licences and Concessions negotiated pursuant to this Ordinance. Cabinet may approve or deny the negotiated Permit, Licence or Concession, or return the negotiated documentation to the Minister for further negotiations.

(10) The time limits set forth in this section are maximum time limits. It is in the interest of the Crown that the Application process proceed as rapidly and efficiently while preserving the interests of the Crown. Applicants shall be entitled to bring any delay directly to the attention of the Minister for action as appropriate.

(11) If the Application is granted, the holder of the Licence or Concession shall within sixty (60) calendar days after the receipt of notice of a grant, post the bond prescribed in section 48 (Bonding) of this Ordinance and the Regulations issued hereunder. Failure to post such bond is grounds for suspension or revocation under section 39 (Suspension and Revocation) of this Ordinance.

(12) The foregoing Application procedures shall apply both when Applicants are responding to invitation to tender and when Applicants are initiating a request in the absence of an invitation to tender.

(13) An Application for a Geothermal Resources Permit, Licence, or Concession to be issued under this Article shall be in the form set forth in the Regulations of this Ordinance.

Competitive Bidding.

34. The Minister shall issue Geothermal Resources Licences and Concessions for Known Geothermal Resources Areas by competitive bidding. In circumstances in which a Geothermal Resources Licence is issued on a competitive basis, the Minister shall consider offers by an otherwise qualified bidder—

- (a) to increase the fees paid under the Geothermal Resources Licence;
- (b) to increase the Royalty paid under the Geothermal Resources Concession; and
- (c) to conduct exploration activities within the time period specified by the Licence, including drilling of Temperature Gradient Holes and deep, exploration Wells.

Negotiated Licence or Concession.

35. The Minister may negotiate the terms and conditions of Permit, Licences and Concessions with Applicants, consistent with the stipulations of section 7(1) (Powers of the Minister) and the other relevant provisions of this Ordinance.

Criteria for Granting.

36. (1) The Minister shall, before granting a Permit, Licence or Concession, take into account—

- (a) the recommendations of the Advisory Committee;
- (b) whether the public interest and national security interests will be safeguarded;
- (c) whether the interests of purchasers and other users of electrical services will be protected;
- (d) whether foreign and domestic investors will be encouraged to invest in Geothermal Resources; and
- (e) appropriate technical and financial requirements.

(2) As set forth in section 7(1) (Powers of Minister) of this Ordinance, the Minister shall not grant a Permit, Licence or Concession without the affirmative recommendation of the Committee and until Cabinet has issued approval in writing.

Modification.

37. (1) The Minister, on the receipt of an affirmative recommendation from the Committee and with the approval of Cabinet, by written notice to the holder may—

- (a) wholly or partly modify a Geothermal Resources Permit, Licence or Concession when the Minister and the holder agree in writing; and
- (b) wholly or partly modify all or any of the terms and conditions contained in any Geothermal Resources Permit, Licensee or Concession where, owing to special circumstances, in the Minister's opinion, compliance therewith would be impossible or great hardship would be inflicted upon the holder;
- (c) extend time to a holder for complying with the terms and conditions of any Geothermal Resources Permit, Licence or Concession upon such terms and conditions as the Minister may think fit; and
- (d) accept, whether with a view or the renewal or regrant of any Geothermal Resources Permit, Licence and Concession or otherwise, the surrender of any Geothermal Resources Permit, Licence and Concession or any part of the Geothermal Resources Area comprised therein; however, no such surrender shall affect any liability incurred by the holder before the surrender shall have taken effect.

(2) The Minister shall, with the approval of Cabinet, wholly or partly modify a Geothermal Resources Permit, Licence or Concession without the agreement of the holder if the Minister and Committee unanimously determine that the modification is necessary or for reasons of national security, and such modification is in writing from the Minister.

(3) A Permittee, Licensee or Concessionaire who seeks a modification of a Licence shall apply in the same manner as it did for the initial Application.

Resolutions of Conflicts between Law and Discretionary Authorizations.

38. To the extent that any provision of a Geothermal Permit, Licence or Concession is inconsistent with any mandatory requirement of this Ordinance, such provision is of no effect.

Suspension and Revocation.

39. (1) The Minister may, on receipt of an affirmative recommendation from the Committee, and by written notice to the holder declare a Geothermal Resources Permit, Licence or Concession to be suspended or revoked—

- (a) if the holder wholly ceases work in or under the Land that is the subject of the Geothermal Resources Licence or Concession during a continuous period of twelve (12) months without the written consent of the Minister; or
- (b) if the holder is in default of any provision of this Ordinance or of the Regulations issued hereunder; or is in default of any Fee, Royalty, or any other money owed to the Government pursuant to this Ordinance and any Regulations issued hereunder; or commits a breach of any

terms or conditions of the Geothermal Resources Permit, Licence or Concession issued to it hereunder.

(2) Suspension and revocation pursuant to section 40(1) (Surrender) of this Ordinance, shall be in effect if and only if the Minister has caused a notice to be served upon the holder, giving the holder two (2) months notice in writing of the Government's intention to suspend or revoke the Geothermal Resources Permit, Licence or Concession, specifying the grounds for doing so and giving the holder an opportunity—

- (a) in the case of a breach which, in the opinion of the Minister, is capable of being repaired or made good, to repair or make good the breach within a specified period; or
- (b) in the case of a breach that in the opinion of the Minister, is not capable of being repaired or made good, to show cause within a specified period why its Geothermal Resources Permit, Licence or Concession should not be suspended or revoked; and the holder has neither made good or repaired the breach within the time specified nor shown reasonable cause why the Permit, Licence or Concession should not be suspended or revoked.

(3) The Minister shall suspend or revoke the Permit, Licence or Concessions if the Cabinet so directs on a finding that the suspension or revocation is necessary for reasons of national security.

(4) The Crown may requisition or expropriate the property of the Licensee or Concessionaire in the interest of national welfare or national security provided that prompt, adequate and just compensation is paid in accordance with this Ordinance or any relevant legislation.

Surrender.

40. (1) At any time during which the holder of a Permit, Licence or Concession has title to a Geothermal Resources Area, the holder may surrender all or part of the Geothermal Resources Area; however, no such surrender shall affect any liability incurred by the holder before the surrender shall have taken effect.

(2) When a Permit, Licence or Concession has been forfeited or revoked, every Permittee, Licensee or Concessionaire and every other Person in whose possession or under whose control the Permit, Licence or Concession may be, shall surrender the Permit, Licence or Concession to the Committee if so required by the Minister.

Removal of Licensee or Concessionaire.

41. (1) Any Licensee or Concessionaire whose Licence or Concession has expired, been surrendered, or revoked shall, within ninety (90) days of the date of the expiry, surrender or revocation, apply to the Minister to enter the Land designated in the Geothermal Resources Licence or Concession to remove all Goods of the Licensee or Concessionaire within the Geothermal Resources Area, including the plant, machinery, operating equipment, engines or tools installed or erected on the Land.

(2) The Minister may require the Licensee or Concessionaire to remove all Goods of the Licensee or Concessionaire in the Geothermal Resources Area, including the plant, machinery, engines or tools, within a reasonable time and if such Goods are not removed within a reasonable time, they may be sold by auction at the risk of the Licensee or Concessionaire. The net proceeds of the sale conducted

pursuant to this Article shall be held until applied for by the Licensee or Concessionaire but may be used in the repair of breaches or faults not made good by the Licensee or Concessionaire and for the payment of the costs incurred in conducting the sale.

Registry and Publication.

42. (1) The Minister shall maintain a Register of all Geothermal Resources Area. The Register shall contain all grant or denials of Permits, Licences and Concessions issued, and all Geothermal Resources Areas declared, assigned, surrendered, expired or extended in duration. The Register may contain other documents of the Minister or the Committee as the Minister may direct. The Register shall be a public register and as such accessible by the public except as provided in section 68 (Confidentiality) of this Ordinance.

(2) The Minister shall cause to be published in the *Gazette* the issuance, expiration, suspension, surrender, modification, revocation or extension of a Geothermal Resources Permit, Licence or Concession.

PART VII

SAFETY, ENVIRONMENT AND COMPLIANCE

Appointment of Inspectors.

43. (1) The Deputy Governor General, upon the recommendation of the Public Service Commission shall by instrument in writing appoint Inspectors for the purposes of this Ordinance.

(2) An Inspector may investigate any complaint or conduct concerning an allegation of a breach of the Ordinance, and any Permit, Licence or Concession and shall ensure compliance with the Regulations issued hereunder.

Co-operation with Inspections.

44. The holders of Geothermal Permits, Licences and Concessions shall facilitate the work of inspection authorized by the Minister.

Notice to Landowner.

45. (1) Geothermal Resources Permits and Licences shall be subject to the condition that, when practicable, the holder shall give reasonable notice of the intention to enter upon any Land to the owner or occupier of the Land.

(2) Every Person who is authorized by Permit to enter upon any Land shall produce its Permit when required to do so by the owner or occupier of the Land on which the Permittee intends to enter or has entered.

Bores.

46. Licences shall be subject to the condition that every Bore shall be—

- (a) drilled in a manner consistent with generally accepted international practices and standards and engineering and operational considerations, including quality and safety standards;

- (b) kept under close supervision;
- (c) maintained in a safe condition;
- (d) finally left in a condition of lasting safety; and
- (e) subject to such other conditions as the Minister may impose at the time of granting the Licence or subsequently at the time of the closure of the Bore.

Environmental Protection.

47. (1) All geothermal operations shall be conducted safely and in accordance with environmentally sound principles, taking into consideration the economic viability of the Geothermal Resources development project. All Persons carrying out Geothermal Resources Activities shall comply with the Regulations of this Ordinance relating to protection of the environment in the Geothermal Resources Area.

(2) Permittees, Licensees and Concessionaires shall, in consultation with the Geothermal Resources Compliance Commission, carry out operations in a manner so as to mitigate Pollution, safeguard natural resources, provide for the reasonable restoration of Lands disturbed by such operations, and minimize the effect of such operations on adjoining or neighbouring Land, including noise abatement and air and water quality protection.

(3) Permittees, Licensees and Concessionaires shall advise the Geothermal Resources Compliance Commission of any significant adverse effect which operations may have on the environment and proposals for controlling or eliminating that effect.

Bonding.

48. (1) Before any surface-disturbing activities relating to drilling can begin, any Person who proposes to drill any Geothermal Resources must post a bond for each type of Well to be drilled in an amount as set out in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance, to ensure compliance with all the terms of any Geothermal Resources Permit, Licence or Concession, including protection of the environment.

(2) Acceptable instruments of bonding are surety bonds, personal bonds, cashier's check, certified checks, certificate of deposits, irrevocable letters of credit, and any other security acceptable to the Government. The beneficiary of all bonds required by this Ordinance shall be the Nevis Island Administration.

(3) The Minister, with the affirmative recommendation of the Committee, may require an increase in the bond amount any time conditions warrant such an increase.

(4) Upon application by the provider of the bond, the Permanent Secretary of Finance shall release the bond and any accrued interest to the provider no later than thirty (30) calendar days after the Geothermal Resources Compliance Commission has certified to the Permanent Secretary of Finance that the Well has been plugged or abandoned or is otherwise in compliance with the Regulations of this Ordinance.

PART VIII
ECONOMIC AND FINANCIAL**Assessment of Application and Annual Fees.**

49. The Minister may assess Fees, including Application Fees, to conduct Phases I, II, III and IV Geothermal Resources Activities and including annual Fees for the opportunity to conduct Phase II, III, and IV Geothermal Resources activities. Such Fees shall be paid in advance, shall be non-refundable, and shall serve to defray the cost of administration and inspection.

Assessment of Annual Royalties.

50. (1) The Minister shall assess no Fees, but shall assess annual Royalties in lieu of Fees for the opportunity to conduct Phase V Geothermal resources activities. Such royalties shall serve to cover the cost of administration and inspection and shall serve to recompense the Crown for the use of Geothermal Resources. The holders of Geothermal Resources Concessions shall pay a Royalty for each Geothermal Resources Concession as a function of the production from such Concession's Geothermal Resources Area.

(2) The Royalty shall be deemed as an expense for tax purposes; provided however, that such Royalty is paid for capacity and energy for use in Saint Christopher and Nevis as distinguished from Royalty paid for capacity and energy for export outside of Saint Christopher and Nevis, the latter of which shall not be deemed as an expense for tax purposes.

(3) The Royalty for each Geothermal Resources Concession shall be determined as a function of the gross annual revenue derived from the sales from such Geothermal Resources Area and shall be paid in the manner agreed in each Geothermal Concession.

(4) For Geothermal Energy used domestically such royalties shall not be more than Five Percent (5%) of the gross annual sales of the Concession.

(5) For Geothermal Energy exported, such royalties shall not be more than Ten Percent (10%) of the gross annual sales value of the Concession.

(6) In establishing the Royalty for a Geothermal Resources Area, the Minister shall take into account—

- (a) in the case of electrical generation, the Royalty should be based on the gross price paid for the electrical power, including capacity and transmitted electricity;
- (b) in the case in which Class I Geothermal Resources Concessionaires also engage in Class II direct use projects, the Royalty should be based on gross sales of product items or services rendered; and
- (c) in all cases, the amount of the Royalty should be based on preserving the economic viability of the project.

Fees and Royalty Payments.

51. (1) Applicants for Permits, Licences and Concessions shall pay the prescribed Application Fees as set out in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance.

(2) Holders of Permits or Licences shall pay the prescribed annual Fees as set out in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance.

(3) Holders of Concessions shall make Royalty payments as set out in the relevant Concession.

(4) All Fees and royalties shall be at the rate and paid in the manner set out in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance.

(5) Fees and royalties for Class II Geothermal Resources Concessions and Special Concessions for Landing Submarine Cables may be set out in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance and paid at the rate and in manner set out in the Third Schedule.

Gazetted Fees and Royalty Payment.

52. The Minister may, by order published in the *Gazette*, establish the amount of the Fees, Bonds and Royalty payments prescribed in this Ordinance and set out in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance, and may by order amend, vary, suspend and revoke said Fees, Bonds and Royalty payments chargeable under said Third Schedule.

Importation.

53. (1) Imports of all Goods required for Phases I, II, III, and IV are free from any and all Customs Duties and all other taxes, for as long as that Phase lasts, including—

- (a) for Phases I and II surveillance and exploration activities pursuant to each Geothermal Resources Permit; and
- (b) for Phases III and IV drilling and production activities pursuant to each Geothermal Resources Licence for Geothermal Energy.

(2) The Customs Duties and all other such import taxes, fees and charges applicable to the imports of Goods required by the holders of Geothermal Resources Concessions for Phase V production of electricity shall be for the importer's account and expense. However, the Minister may specifically set forth in such Concessions a provision whereby imports of all Goods required for Phase V initial installation or expansion of capacity in such production facilities are free from any and all such Customs Duties and other such import taxes, fees and charges, for as long as that Phase V expansion activity lasts.

(3) By Order, approved by the Cabinet, the Minister may stipulate the list of Goods subject to the benefit included in section 53(2) (Importation) of this Ordinance.

(4) The Minister may by order published in the *Gazette* grant and establish the following incentives—

- (a) Permittees and Licensees and their independent contractors and subcontractors may import Goods (such as materials, equipment, supplies, machinery, vehicles, consumable items, movable property and any other articles) to be used primarily in carrying out operations under Geothermal Resources Permits and Licences tax-free and duty-free;
- (b) Concessionaires and their independent contractors and subcontractors may import Goods to be required for the initial installation or expansion of the capacity of those production installations of Phase V

tax-free and duty-free for the time the expansion activity will take in Phase V. The parameters of “initial installation” and/or “expansion” shall be established in the terms of the Concession and in the Regulations issued hereunder;

- (c) in relation to Goods imported or to be imported pursuant to this section 53 (Importation), and that are to be used solely in carrying out operations under Geothermal Resources Permits, Licences and Concessions, the Government shall issue to the Permittee, Licensee or Concessionaire and their independent contractors and subcontractors the requisite approval of any required import licence; and any required exchange control;
- (d) each employee of a Permittee, Licences and Concessionaire and its independent contractors and subcontractors shall be permitted to import and shall be exempt from all Customs Duties with respect to the reasonable importation of legally permissible household goods and personal effects, provided such employee is an Expatriate.

Exportation.

54. Permittees, Licensees, Concessionaires and their independent contractors and subcontractors and their Expatriate employees may export from Saint Christopher and Nevis, exempt of all Customs Duties and other such export taxes, fees and charges, all previously imported items which are no longer required for the conduct of operations under Geothermal Resources Permits, Licences and Concessions.

Resale of Imported Goods.

55. Permittees, Licensees and Concessionaires and their independent contractors and subcontractors and their Expatriate employees may sell in Saint Christopher and Nevis all imported items that are no longer needed for operations under such Geothermal Permits, Licences and Concessions; provided however that Goods imported pursuant to Part VIII (Economic and Financial) of this Ordinance, shall not be sold in Nevis for a period of five (5) years from the date of purchase or import into Saint Christopher and Nevis (whichever date is later in time) unless the vendor first pays the requisite Customs Duties.

Joint and Severable Responsibility of Holders of Authorizations.

56. (1) Whenever there are two or more Persons making up the holder of Geothermal Resources Permits, Licences and Concessions, each such Permit, Licence and Concession shall identify the Person responsible for managing the operation. The responsibility for managing operations may alternate among the Persons making up the holder of such Permits, Licences and Concessions; however, all such Persons shall be jointly and severably responsible for those obligations stipulated in, and resulting from, the Geothermal Resources Permits, Licences and Concessions.

(2) Each such Person will be severably responsible to the Crown as regards their tax and accounting liabilities.

Accounting.

57. The holders of Geothermal Resources Permits, Licences and Concessions may keep accounts in a foreign currency, in keeping with accounting practices accepted in Nevis.

Investment Information.

58. The holders of Geothermal Resources Permits, Licences and Concessions shall submit to the Committee documentary proof of the investments made every year in the country indicating, in each case, whether these investments are made in capital Goods or otherwise.

Transfer and Assignment Prohibited.

59. No Permittee, Licensee or Concessionaire shall transfer or assign its Permit, Licence or Concession or any part thereof without the consent in writing of the Minister signified by endorsement thereon.

Amortization.

60. (1) Exploration and development expenditures as well as the investments that the holders of Geothermal Resources Permits, Licences and Concessions may make up to the date when commercial extraction of Geothermal Resources starts, including the cost of the Bores, shall be accumulated in an account whose amount, at the holders of such Permits, Licences and Concessions option, and with respect to each Geothermal Permit, Licence and Concession, shall be amortized following either of the methods or procedures given below—

- (a) on the basis of the production unit; or
- (b) through a linear amortization, deducting them in equal portions, during a period of no less than five (5) fiscal years.

(2) Once Commercial Operations start, all debit accounts that have no recovery value shall be deducted as expenses for that fiscal year.

(3) The wear suffered by depreciable goods shall be charged off by deducting amounts that shall be computed annually in keeping with the common income tax system in force at the effective date of each Geothermal Resources Permit, Licence and Concession.

(4) Depreciations made by the holders of Geothermal Resources Permits, Licences and Concessions shall be reported to the Island Revenue Department.

(5) The Geothermal Resources Licence and Concession shall stipulate the amortization method to be used by the holders, which method once elected may be changed once during the terms of the Licence and Concession combined and thereafter shall remain unchanged during the term of the Licence and its successor Concession.

(6) In case the linear amortization method is chosen, the period in which the amortization is to be carried out shall be agreed upon in the Geothermal Resources Permit, Licence and Concession itself.

PART IX
OFFENCES AND SANCTIONS**Prohibition on Engaging in Services Without Permit, Licence, or Concession.**

61. (1) A Person shall not sink a Bore, tap or take and use or apply Geothermal Resources in a designated Geothermal Resources Area or Known Geothermal Resources Area for any purpose without a Geothermal Permit, Licence, or Concession.

(2) A Person who contravenes section 61(1) (Prohibition on Engaging in Services Without Permit, Licence, or Concession) of this Ordinance, commits an offence.

Public Servants and Institutions Conflicts of Interest.

62. (1) No juridical Person, government institution, official department, or public or private agency is empowered to set up or charge any fees or compensations whatsoever that have not been expressly stipulated by this Ordinance. This limitation includes local governmental authorities.

(2) A public servant does not incur any liability in respect of the exercise or performance, or purported exercise or performance, by him in good faith of any function under and for the purposes of this Ordinance.

(3) No public servant engaged in the administration of this Ordinance shall—

- (a) acquire a Permit, Licence or Concession or an interest therein; or
- (b) acquire or continue to hold a share in the share capital of a body corporate that is or becomes a Permittee, Licensee, or Concessionaire and for that purpose, the acquisition of such a share or interest or the holding of such a share, by spouse, (not himself or herself being a Permittee, Licensee, or Concessionaire), of a Permittee, Licensee, or Concessionaire, shall be treated as an acquisition or holding by the Permittee, Licensee, or Concessionaire.

(4) Any Person who contravenes sections 62(1), (2) or (3) (Public Servants and Institutions Conflicts of Interest) of this Ordinance commits an offence.

Malicious Damage to Equipment.

63. (1) No Person shall remove, injure, or destroy any equipment owned or used by a Permittee, Licensee, Concessionaire or Sub Contractor in a Geothermal Resources Area or in a known Geothermal Resources Area.

(2) A Person who contravenes section 63(1) (Malicious Damage to Equipment) of this Ordinance commits an offence.

General Penalty.

64. Any Person found guilty of an offence under this Ordinance for which no special penalty is provided under this Ordinance is liable—

- (a) on summary conviction, is liable to a fine not exceeding Two Thousand Dollars (\$2000.00) and/or to imprisonment for a term not exceeding six (6) months; and

- (b) on conviction on indictment is liable to a fine not exceeding Ten Thousand Dollars (\$10,000.00) and/or to imprisonment for a term not exceeding five (5) years.

PART XI

MISCELLANEOUS PROVISIONS

Rights of Use, Rights of Way and Land Acquisition.

65. (1) Pursuant to the Regulations to be issued hereunder, Persons carrying out Geothermal Resources Activities under this Ordinance, in the relevant Geothermal Resources Area—

- (a) have the right to use the water, gravel and such other construction materials obtained in the natural state that might be necessary for their operations, respecting the rights of third parties, including the right to compensation and pursuant to relevant law; and
- (b) shall be entitled to obtain the requisite authorization for access, ingress and egress, rights of way, water and surface rights as well as any other type of rights or authorisations over public or private Lands that may be necessary for the performance of their activities.

(2) Any economic damages caused by the exercise of such rights shall be indemnified by the Persons causing such damages.

(3) The Minister shall, by instrument, cause legal rights of way to be established for those cases in which they might be needed for the Geothermal Resources Activities under this Ordinance.

(4) A Person duly qualified to carry out the Geothermal Resources Activities included under this Ordinance, in the event that it fails expeditiously to acquire land within a Geothermal Resources Area or a Known Geothermal Resources Area, may request the Minister to acquire privately owned Lands. The Minister, in consultation with the Committee shall evaluate the request and, should it be determined pertinent and duly supported, such acquisitions shall be considered as matters of national and public need and the compulsory acquisition procedures over the area involved shall be taken in accordance with the applicable law for the acquisition of, and compensation for, the required area and as set forth in the Nevis Land Acquisition Ordinance cap. (N).

Applicable Law and Jurisdiction.

66. Any disputes that may arise in the performance, compliance general, on anything having to do with the Geothermal Resources Activities to which this Ordinance refers, may be submitted to the courts of Saint Christopher and Nevis or to national or international arbitration, including the International Centre for Settlement of Investment Disputes (ICSID) and the International Chamber of Commerce Court of Arbitration as may be negotiated and set forth in the applicable Permit, Licence or Concession. Once the forum has been agreed upon, the choice of that forum shall be binding. If arbitration is chosen, the award of the arbitral tribunal shall be unappealable and of mandatory compliance.

Labour.

67. The Government shall not unreasonably refuse to issue and/or renew entry and work permits for Expatriate technicians and managers employed in operations under Geothermal Permits, Licences and Concessions.

Confidentiality.

68. (1) No information, obtained under or by virtue of this Ordinance, about prospecting or production operations under a Geothermal Resources Licence or Concession shall be disclosed by the Government, unless the disclosure is made—

- (a) with the consent of the Permittee, Licensee or Concessionaire;
- (b) for the purpose of facilitating the performance of any functions under this Ordinance if it is reasonable to do so;
- (c) in connection with the investigation of any criminal offence or for the purpose of any criminal proceedings;
- (d) for the purpose of facilitating the performance by a consultant to Saint Christopher and Nevis, or any instrumentality thereof, of any functions under the consultancy arrangement, provided that such consultant is bound by the same standard of care as the Government;
- (e) for the purpose of the determination of the liability of a Permittee, Licensee or Concessionaire to make any payment under this Ordinance; and
- (f) for any purpose or in any circumstances prescribed in such Geothermal Resources Permit, Licence or Concession.

(2) When any disclosure is made to a Person pursuant to sections 67(1)(a), (d) or (f) (Confidentiality) of this Ordinance, then for the purposes of this section, that Person shall be treated as having obtained the information by virtue of this Ordinance.

(3) The right of a Permittee, Licensee or Concessionaire, their servants or agents to disclose information about prospecting or production operations under a Geothermal Resources Permit, Licence or Concession is subject to any restrictions or limitations in that connection prescribed in such Permit, Licence or Concession.

(4) Any Person who discloses information in contravention of sections 68(1), (2) or (3) (Confidentiality) of this Ordinance, is guilty of an offence. In proceedings on a prosecution for such offence it is a sufficient defence if the accused Person proves that the information disclosed was, without that disclosure, generally known to the public.

Regulations.

69. (1) The Minister may make Regulations necessary to give effect to the provisions of this Ordinance.

(2) Regulations made under this Ordinance shall take into account that Geothermal Energy is a unique energy resources because it must be used on site, whether it be for electrical generation or for direct utilization; that Geothermal Energy often involves substantial outlays of capital investment requiring amortization periods of twenty (20) to thirty (30) years; that Geothermal Energy is a renewable resources, sustainable if husbanded properly; that Geothermal Energy is an environmentally benign energy source; and that Geothermal Energy is a resources

indigenous to Saint Christopher and Nevis, the development of which will reduce dependence of imported fuels.

(3) Without limiting the generality of sections 69(1) and 69(2) of this Ordinance, the Minister may, in particular, make Regulations providing for or in relation to—

- (a) forms and procedures that may be required for the purposes of this Ordinance including Applications for a Geothermal Resources Permit, Licence or Concession as forth in section 33 (Application Procedure) of this Ordinance;
- (b) conditions upon or subject to which Geothermal Resources Permits, Licences and Concessions may be applied for granted or renewed;
- (c) the requisite qualifications of Persons who may be granted Geothermal Permits, Licences and Concessions including—
 - (i) the technical, legal, economic and financial qualification of Applicants;
 - (ii) the minimum experience, capacity and solvency needed to guarantee the sustained development of Geothermal Resources exploration and exploitation activities in keeping with the characteristics of a Geothermal Resources Area;
 - (iii) the investment required; and
 - (iv) the environmental protection guidelines;
- (d) the keeping of Records and furnishing of information and returns by Persons authorized by or under this Ordinance, and prescribing the nature of the Records, information, and returns and the form, manner and time in which they shall be kept or furnished;
- (e) matters in respect of which Fees, royalties and bonds are to be payable under this Ordinance and the amount of the royalties, and Persons liable to pay them;
- (f) the refund of Fees, royalties and bonds, in such circumstances as the Minister thinks fit, of any such monies payable under this Ordinance;
- (g) the responsibilities of Permittees, Licensees and Concessionaires to whom authorities are granted by or under this Ordinance, and the operations to be carried out under Geothermal Resources Permits, Licences and Concessions;
- (h) preventing or abating nuisances in or about Geothermal Resources activities and industries using Geothermal Resources;
- (i) safety precautions;
- (j) procedures regarding any emergency in connection with Geothermal Resources activities;
- (k) generally regulating the making of Bores;
- (l) the requirements and procedures which will make the use of the rights set forth under this Ordinance, possible;
- (m) the environmental regulations for Geothermal Resources activities;

- (n) the qualifications of Permittees, Licensees and Concessionaires pursuant to Part V (Permits, Licences and Concessions) of this Ordinance;
- (o) simplification of customs procedures for the importation of goods by Permittees, Licensees and Concessionaires by;
- (p) the formula pursuant to which a [Public Utility] shall calculate the purchase price of electricity;
- (q) matters of confidentiality;
- (r) model geothermal power purchase/sales agreements;
- (s) procedures for the treatment of complaints;
- (t) procedures for dispute resolution;
- (u) matters for which guidelines are to be issued by the Minister or the Committee;
- (v) pricing models;
- (w) submarine cables and landing rights;
- (x) the governance of Class II resources;
- (y) guidance to Inspectors to ensure that Permittees, Licensees and Concessionaires safeguard the national interest and watch over the safety and health of their workers;
- (z) the minimum and maximum size of each geothermal resources area; and
- (aa) field rules in accordance with which all geothermal operations shall be conducted by Permittees, Licensees and Concessionaires.

Conflict.

70. (1) Any provision in any law inconsistent with this Ordinance is void to the extent of the inconsistency in relation to the matters covered by this Ordinance.

(2) The terms included in this Ordinance may only be repealed or amended by a law that specifically refers to them.

Application to Crown.

71. This Ordinance binds the Crown.

FIRST SCHEDULE
MODEL GEOTHERMAL RESOURCES CONTRACT
BETWEEN
THE MINISTRY OF NATURAL RESOURCES
THE NEVIS ISLAND ADMINISTRATION
AND
(NAME OF GRANTEE)
PURSUANT TO
NEVIS GEOTHERMAL
RESOURCES DEVELOPMENT ORDINANCE CAP. (N)

This Geothermal Resources Contract (hereinafter referred to as the “**Contract**”) effective this ____ day of the month of ____, of the year 20__, is entered into by the Minister of Natural Resources (the “**Government**”) to [**NAME OF GRANTEE**], [a company registered under the Companies Ordinance], pursuant to section 18 (2) (i) of the Geothermal Resources Development Ordinance, No. 4 of 2008 (the “**Ordinance**”) and organized under the laws of [____] [with its principal place of business at [**ADDRESS OF GRANTEE**]

[(**Alternative Language**) Name of Public Officer or Agency per Ordinance section 18 (2)]¹

(hereinafter referred to as the “**Grantee**” and where the context so allows, “**Permittee**”, or “**Licensee**”, or “**Concessionaire**” or “**the holder of these authorizations**”). The Government and the Grantee are hereinafter referred to as the “**Parties**”.

Permit Provisions

Relating to Authorizations Granted Pursuant to Part V (Permits, Licences and Concessions) of the Geothermal Resources Development Ordinance

FIRST:

Authorizations for Reconnaissance and Exploration Activities

Article 1. Permit. This Geothermal Resources Permit (the “**Permit**”) is granted this ____ day of, 20[____], by the Minister of Natural Resources (the “**Minister**”) to [**NAME OF GRANTEE**] (the “**Permittee**”) pursuant to Part V (Permits, Licences and Concessions) of the Ordinance.

¹ **First Schedule.** Also a Public Officer or an agent of the government may be a Grantee. See Ordinance, section 18(2).

Grant of Permit.

- 1.1 The Permittee is hereby granted the right to enter upon the [Geothermal Resources Area] [Known Geothermal Resources Area] specified in Appendix A (Geothermal Resources Area), of this Contract to conduct:

[Alternative Language 1] [Phase I Reconnaissance Activities pursuant to section 20 (a) (Geothermal Resources Permits) of the Ordinance] [and / or]

[Alternative Language 2] Phase II Exploration Activities pursuant to section 20(b) (Geothermal Resources Permit) of the Ordinance]

and to do all such things as are reasonably necessary for, and in conjunction with, such [Reconnaissance activities] [and / or] [Exploration activities].

Rights under Permit and Term of Permit.

- 1.2 The rights granted hereby shall be as set forth in section 22 (Rights of Permittees) of the Ordinance and shall be **[SET FORTH EXCLUSIVE OR NON-EXCLUSIVE GRANT]**:

- (a) **[Alternative Language 1]** **[Non-Exclusive]** pursuant to section 20 (Relationship among Permits, Licences and Concessions) of the Ordinance.]

[Alternative Language 2] **[Exclusive]** pursuant to section 20 (Relationship among Permits, Licences and Concessions) of the Ordinance.]

- (b) **Term.** The rights to [conduct reconnaissance] [and] [explore] the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, shall be for a term of [two (2) years] from the date of this Permit [or from the date the Minister notifies Permittee that it has secured surface and subsurface rights allowing Permittee to enter the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto pursuant to this Permit, whichever date is last in time.

- (c) **Extensions.** At the end of that [two (2) year] term, the Minister may extend the Permit for additional terms of [one (1) year] or require the Permittee to surrender this Permit. The Minister shall grant any such extensions only after Application from the Permittee to the Minister in accordance with the procedure set forth in section 33 (Application Procedure) of the Ordinance and by written notice to the Permittee of said grant.

- (d) **Forfeitures.** The Minister may, by written notice to the Permittee, declare this Permit to be forfeited if, as reported pursuant to section 3.1 (Responsibilities of the Parties), below, the Permittee wholly ceases work in the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, without the written consent of the Minister, for a continuous period of [six (6)] months. The Minister shall provide Permittee notice of his intention to declare the Permit to be forfeited and shall provide the Permittee a cure period of thirty (30) calendar days.

Permit Provisions

SECOND:

Authorizations to Convert Permit for Reconnaissance and Exploration Activities to a Licence for Drilling Activities and Steam Production Activities

[Alternative Language 1] Preference to Convert Permit to License.

- 1.3 Since this Permit is issued on a non-competitive basis, pursuant to section 20 (1) (Relationship among Permits, Licences and Concessions) of the Ordinance, Permittee shall have a preference in obtaining the License to conduct Phase III Geothermal Resources drilling and Phase IV Geothermal Resources steam production on such terms and conditions as may be granted by the Minister consistent with this Ordinance. Such preference must be exercised by application from the Permittee to the Minister not later than thirty (30) days after the expiration of such Permit.

[Alternative Language 2] Right to Conversion Permit to License.

- 1.4 Since this Permit is issued on a competitive basis, pursuant to section 20 (3) (Relationship among Permits, Licences and Concessions) of the Ordinance, Permittee shall have the right to convert this Permit to a License to conduct Phase III Geothermal Resources drilling and Phase IV Geothermal Resources steam production. The following terms and conditions shall apply:
- (a) Such preference must be exercised by Application from the Permittee to the Minister in accordance with the procedure set forth in section 33 (Application Procedure) of the Ordinance not later than thirty (30) days after the expiration of such Permit.
 - (b) [RESERVED/negotiated provisions to be inserted.]
 - (c) [RESERVED/negotiated provisions to be inserted.]

[Alternative Language 3] Conversion of Permit to License.

- 1.5 Since this Permit is issued to a public officer or agent of the Crown, pursuant to section 20 (3) (Relationship among Permits, Licences and Concessions of the Ordinance) Permittee shall have no right or preference in obtaining the License to conduct Phase III Geothermal

Resources drilling and Phase IV Geothermal Resources steam production.

Licence Provisions

Relating to Authorizations Granted Pursuant to Part V (Permits, Licences and Concessions) of the Geothermal Resources Development Ordinance

THIRD:

Authorizations for Drilling Activities and Steam Production Activities in addition to Reconnaissance and Exploration Activities

Article 2. Licence. This Geothermal Resources Licence (the “**Licence**”) is granted this ___ day of, 20[___], by the Minister of Natural Resources (the “**Minister**”) to [Name of Licensee] (the “**Licensee**”) pursuant to Part V (Permits, Licences and Concessions) of the Ordinance.

Grant of Licence.

2.1 The Licensee is hereby granted the right to enter upon the [Geothermal Resources Area] [Known Geothermal Resources Area] specified in Appendix A (Geothermal Resources Area), hereto, of this Contract to conduct:

- (a) Phase I Reconnaissance Activities and Phase II Exploration Activities pursuant to section 24 (2) (a) (Geothermal Resources Licences) of the Ordinance;
- (b) Phase III Drilling Activities and Phase II Exploration Activities pursuant to section 24 (2) (b) (Geothermal Resources Licences) of the Ordinance;
- (c) Phase IV Steam Production Activities and Phase II Exploration Activities pursuant to section 24 (2) (c) (Geothermal Resources Licences) of the Ordinance; and to do all such things as are reasonably necessary for, and in conjunction with, such Reconnaissance, Exploration, Drilling and Steam Production Activities.

Right under Licence and Term of Licence.

2.2 The rights granted hereby shall be as set forth in section 25 (Rights of Licensees) of the Ordinance, and shall be: [**SET FORTH EXCLUSIVE OR NON-EXCLUSIVE GRANT**]

- (a) [**Alternative Language 1**] [Non-Exclusive pursuant to section 20 (Relationship among Permits, Licences and Concessions) of the Ordinance.]

[**Alternative Language 2**] [Exclusive pursuant to section 20 (Relationship among Permits, Licences and Concessions) of the Ordinance.]

- (b) The rights to conduct reconnaissance, explore, drill in and product steam in the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, shall be for a term of [ELECT TERM] [one (1) two (2) three (3) four (3) five (5) years² from the date of this Licence to [ELECT END DATE] ___ day of the month, ___ 20, __,

[Alternative Additional Language] [or from the date the Minister notifies Licensee that it has secured surface and subsurface rights allowing Licensee to enter the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, pursuant to this Licence, whichever date is last in time].

Extensions.

- 2.3 At the end of that [__SAME AS 2.2 b__ ()] year term, the Minister may extend the Licence for additional terms of [two (2) years³] or require the Licensee to surrender this Licence. The Minister shall grant any such extensions only after Application from the Licensee to the Minister in accordance with the procedure set forth in section 33 (Application Procedure) of the Ordinance by written notice to the Licensee. The Minister shall provide Licensee notice of his intention to declare the Licence to be forfeited and shall provide the Licensee a cure period of thirty (30) calendar days.

Forfeitures.

- 2.4 The Minister may, by written notice to the Licensee, declare this Licence to be forfeited if the Licensee wholly ceases work in the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, or fails to supply the requisite quarterly reports pursuant to Section 3.1 (Responsibilities of the Parties), below, without the written consent of the Minister, for a continuous period of [six (6)] months.

Fees.

- 2.5 Commencing on the first anniversary date of this Licence, Licensee shall pay to the Government Fees pursuant to section 50 of the Ordinance (Fees and Royalty Payments) and [as set forth in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance,] [as follows:]. [SET FORTH NEGOTIATED FEE]

Bonds.

- 2.6 Bonds posted for each Well shall be set at [_____].

² First Schedule. S 2.2(b), see Ordinance, S 25(1).

³ First Schedule. S 2.2(b), see Ordinance, S 25(1).

Licence Provisions***FOURTH:******Authorizations to Convert Licence for Reconnaissance, Exploration, Drilling and Steam Production Activities to a Concession for Electricity Production Activities*****[Alternative Language 1] Preference to Convert Licence to Concession.**

- 2.7 Since this Licence is issued on a non-competitive basis, pursuant to section 20 (1) (Relationship among Permits, Licences and Concessions) of the Ordinance, Licensee shall have a preference in obtaining the Licence to conduct Phase I Reconnaissance, Phase II Exploration, Phases III Geothermal Resources drilling, Phase IV Geothermal Resources steam production consistent with this Licence and the Ordinance. Such preference must be exercised by Application from the Licensee to the Minister in accordance with the procedure set forth in section 33 (Application Procedure) of the Ordinance not later than thirty (30) days after the expiration of such Licence.

[Alternative Language 2] Right to Conversion Licence to Concession.

- 2.8 Since this Licence is issued on a competitive basis, pursuant to section 20 of the Ordinance (Relationship among Permits, Licences and Concessions) of the Ordinance, Licensee shall have the right to convert this Licence to a Concession. The following terms and conditions shall apply:
- (a) Such preference must be exercised by Application from the Licensee to the Minister in accordance with the procedure set forth in section 33 (Application Procedure) of the Ordinance not later than thirty (30) days after the expiration of such Licence.
 - (b) [RESERVED: Negotiated provisions to be inserted.]
 - (c) [RESERVED: Negotiated provisions to be inserted.]

[Alternative Language 3] Conversion of Licence to Concession.

- 2.9 Since this Licence is issued to a public officer or agent of the Crown, pursuant to section 20 (Relationship among Permits, Licences and Concessions of the Ordinance), Licensee shall have no right or preference in obtaining a Concession.

Conversion of Authorization to Concession.

- 3.0 If during the [_SAME AS 2.2 b_] term granted for the exploration and development of the Geothermal Resources Area, or during any extension thereto, Licensee produces Geothermal Resources of economically developable quality in any location in the Geothermal Resources Area, the Licensee shall submit to the Ministry a Declaration of viable Geothermal Resources and within twelve (12) months thereafter, an application for the grant of a Geothermal Resources Concession in the form of a development and production program.

Concession Provisions.

Relating to Authorizations Granted Pursuant to Part V (Permits, Licences and Concessions) of the Geothermal Resources Development Ordinance

FIFTH:***Authorizations for Electricity Production Activities in addition to Reconnaissance, Exploration, Drilling and Steam Production Activities***

Article 3. Concession. This Geothermal Resources Concession (the “Concession”) is granted this ___ day of, 20[__], by the Minister of Planning and Development (the “Minister”) to [Name of Concessionaire] (the “Concessionaire”) pursuant to Part V (Permits, Licences & Concessions) of the Ordinance.

Grant of Concession.

3.1 The Concessionaire is hereby granted the right to enter upon the [Geothermal Resources Area] [Known Geothermal Resources Area] specified in Appendix A (Geothermal Resources Area), hereto, of this Contract to conduct:

- (a) Phase I Reconnaissance Activities and Phase II Exploration Activities pursuant to section 24 (2) (a) (Geothermal Resources Licences) of the Ordinance;
- (b) Phase III Drilling Activities and Phase II Exploration Activities pursuant to section 24 (2) (b) (Geothermal Resources Licences) of the Ordinance;
- (c) Phase IV Steam Production Activities pursuant to section 24 (2) (c) (Geothermal Resources Licences) of the Ordinance;
- (d) Phase V Electricity Production Activities;
- (e) [Add transmission language as negotiated.]
- (f) [Add interconnection language as negotiated.]

and to do all such things as are reasonably necessary for, and in conjunction with, such Reconnaissance, Exploration, Drilling and Steam Production Activities.

Rights under Concession.

3.2 The rights granted hereby shall be as set forth in section 29 (Rights of Concessionaires) of the Ordinance and shall be exclusive pursuant to section 20 (Relationship among Permits, Licences and Concessions) of the Ordinance.

Terms of Authorization. Forfeiture.

3.3 Upon approval by the Ministry, the rights granted herein shall be Automatically and irrevocably extended for a term of twenty-five (25) years from the Date of Initial Commercial Operations of the Facility and such term may be renewed upon mutual agreement of the

Concessionaire and the Government for an indefinite number of further periods of five (5) years each; provided that Concessionaire is still producing electricity or steam used in the production of electricity.

Royalties.

- 3.4 The Minister may, by written notice to the Concessionaire, declare this Concession to be forfeited if, as reported pursuant to section 3.1 (Responsibilities of the Parties), below, the Concessionaire wholly ceases work in the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, without the written consent of the Minister, for a continuous period of three (3) years. The Minister shall provide Concessionaire notice of his intention to declare the Concession to be forfeited and shall provide the Concessionaire a cure period of ninety (90) calendar days.
- 3.5 Commencing on the date Concessionaire has generated and realized its first payment for [INSERT REQUIRED CAPACITY] of capacity, the Concessionaire shall pay to the Government a Royalty pursuant to section 51 of the Ordinance (Fees and Royalty Payments) and [as set forth in the Third Schedule (Fee, Bond and Royalty Payments) of this Ordinance,] [as follows:]. [SET FORTH NEGOTIATED FEE]. The percentage figures set forth in Section 6 (b) (Royalties) of the Third Schedule (Fee, Bond and Royalty Payments) (i.e., the determination of the value of "x") are to be negotiated.

*General Provisions***SIXTH*****Provisions Relating to Permits, Licenses and Concessions Granted Pursuant to the Law of Geothermal Resources Development Ordinance*****Article 3. General****Responsibilities of the Parties.**

- 3.1 (a) Responsibilities of the Holder of the Authorization. The holder of the authorizations granted in this Contract shall comply with the terms and conditions of the Ordinance and the Regulations issued thereunder, and in particular shall:
- (i) conduct all geothermal operations safely and in accordance with environmentally sound principles;
 - (ii) in consultation with the Minister or his designee, carry out its operations in a manner so as to mitigate Pollution, safeguard natural resources, provide for the reasonable restoration of lands disturbed by such operations, and minimize the effect of such operations

on adjoining or neighbouring land, including noise abatement and air and water quality protection; and

- (iii) advise the Minister of any significant adverse effect that its operations may have on the environment and its proposals for controlling or eliminating that effect.

(b) Responsibilities of the Government. The Minister shall:

- (i) issue to the holder of these authorizations any permits, licenses, certificates and approvals necessary to enable the it to exercise its rights as set forth in this Contract, subject to reasonable terms and conditions, including protection of the environment in the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto;
- (ii) assist the holder of these authorizations in identifying and expeditiously completing, consistent with this Contract and the laws and regulations of Nevis, all licenses, permits, and other regulatory requirements applicable; and
- (iii) complete all actions required by or for operations within the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, pursuant to the laws or regulations within the jurisdiction of all local Ministerial authorities.

Entry Upon Expiry, Surrender or Revocation.

- 3.2 As soon as possible, but in any event not later than a period of ninety days (90) calendar days following the expiry, surrender or revocation of Permit, Licence or Concession issued pursuant to this Contract the Permittee, Licensee or Concessionaire may enter the [Geothermal Resources Area] [Known Geothermal Resources Area] identified in Appendix A (Geothermal Resources Area), hereto, to remove any goods belonging to such Permittee, Licensee or Concessionaire.

Reporting.

- 3.3 The holder of these authorizations shall provide the Minister with written reports of the progress of activities under this Permit within thirty (30) calendar days following the last day of March, June, September and December, covering the three (3) previous months. The form of the report to be set forth in the Regulations.

Dispute Settlement.

- 3.4 Any question or dispute arising out of or in relation to or in connection with this Contract, shall, as far as possible, be settled amicably. Where no settlement is reached within thirty (30) calendar days from the date that notice of the matter in dispute has been served

by one Party on the other, such dispute shall be transferred to arbitration in accordance with the following provisions:

General.

- 3.3.1 Any dispute, controversy or claim arising out of or relating to this Contract and/or the Exhibits hereof, or the breach, termination or invalidity thereof, shall be settled finally by arbitration.

ICSID Arbitration.

- 3.3.2 Such arbitration shall be before, and pursuant to the rules of, the International Centre for Settlement of Investment Disputes pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, provided that the Government of Saint Christopher and Nevis is a party to the Convention at the time such dispute arises.

Administration.

- 3.5 The Minister or the Minister's designees appointed in writing, shall be responsible for the administration of this Contract. Holders of authorizations are entitled to correspond with and rely on the representations of the Minister in all respects with the execution of this Contract.

Notice and Service.

Successors and Assigns.

- 3.6 Any notice to be given or to be served upon either Party hereto in connection with this Contract must be in writing and shall be hand delivered, or sent via registered mail, postage prepaid, or via facsimile, or via e-mail, to the Party to receive the notice at the addresses or facsimile numbers listed for such party below, or such other address or number as such Party may designate by written notice made pursuant to this section. Notices, if sent by registered mail, shall be deemed served five (5) days from date of mailing. Notices sent by facsimile or e-mail shall be deemed served on the first business day after dispatch; provided a copy of the facsimile or e-mail shall be sent on the same date as dispatch via mail.

(i) For the Government:

Attn: _____

Telefax: _____

E-mail: _____

(ii) For GRANTEE:

Attn: _____

Telefax: _____

E-mail: _____

3.7 This Contract shall be binding upon and shall inure to the benefit of, or may be performed by, the successors and assigns of the holder of Authorizations under this Contract, except that no assignment, pledge or other transfer of any Licence, Permit, or Concession issued pursuant to this Contract shall operate to release the assignor, pledgor, or transferor from any of its obligations under such Licence, Permit, or Concession unless consent to the release is given in writing by the Minister; provided however, that any Licence, Permit, or Concession may be assigned:

- (i) to a provider of debt or equity financing to the Company;
- (ii) to [Name of Export Credit Agency, e.g., the Overseas Private Investment Corporation, the Import Export Bank, etc.] in the event of expropriation; or
- (iii) as part of a transfer of interest in the Company as permitted by the Minister with sixty (60) days prior notice to the Minister.

Judicial Stability Agreement. Miscellaneous.

3.8 [RESERVED]

3.9

Definitions.

3.9.1 For the purposes of this Contract, the terms used herein shall have the same meaning as those terms are defined in the section 3 (Interpretation) of the Ordinance.

“**Appendixes**” for the purposes of this Contract means the separate attachments to this Contract which are incorporated into this Contract when executed by the Parties; to wit:

Appendix A Geothermal Resources Area

Appendix B Model Special Concessions

Governing Law.

3.9.2 The validity of this Contract, the construction of its terms and the interpretation of the rights and duties of the Parties shall be governed by and construed in accordance with the laws of Nevis.

Issued for the Nevis Island Administration

By

[SIGNATURE]

[NAME]

The Minister of Natural Resources

[TITLE]

This ____ day of the month of _____, of the year 20__.

For the [Grantee]

By

[SIGNATURE]

[NAME]

[TITLE]

This ____ day of the month of _____, of the year 20__.

FIRST SCHEDULE

APPENDIX A

GEOHERMAL RESOURCES AREA

[To be established by Minister in consultation with Permittee/Licensee/Concessionaire]

SECOND SCHEDULE
APPENDIX B
MODEL SPECIAL CONCESSIONS
BETWEEN
THE MINISTRY OF NATURAL RESOURCES
THE NEVIS ISLAND ADMINISTRATION
AND
[NAME OF CONCESSIONAIRE]
PURSUANT TO
NEVIS GEOTHERMAL RESOURCES DEVELOPMENT ORDINANCE
(No. 4 of 2008)

This Special Concession (hereinafter referred to as the “**Concession**”) effective this ___ day of the month of ___, of the year 20 ___, is entered into by the Minister of Natural Resources (the “**Government**”) to [NAME OF CONCESSIONAIRE], [a company registered under the Companies Ordinance], pursuant to Section 18 (2) (i) of the Geothermal Resources Development Ordinance, No. 4 of 2008 (the “**Ordinance**”) and organized under the laws of [___] [with its principal place of business at [ADDRESS OF CONCESSIONAIRE] (hereinafter referred to as “**Concessionaire**”). [The Government and the Concessionaire are hereinafter referred to as the “**Parties**”].]

Authorizations for Special Electricity Production Activities

Article 1. Special Concession. This Concession is granted this ___ day of ___, 20 ___, by the Government to the Concessionaire pursuant to section 28 (Concession for Landing Submarine Cables) of the Ordinance. [This Special Concession is in addition to the Permits, Licences and Concessions set forth in the Geothermal Resources Contract between the Parties dated the ___ day of ___ 20 ___.

Grant.

- 1.1 The Concessionaire is hereby granted the right to land and operate submarine cables and the interconnection facilities related thereto in accordance with section 28 (Concession for Landing Submarine Cables) of the Ordinance and identified more specifically in Appendix B (Submarine Cable Landing and Related Facilities Area), hereto, and to conduct:
 - (a) Phase V Electricity Production Activities;
 - (b) [Add transmission language as negotiated.]
 - (c) [Add interconnection language as negotiated.]

and to do all such things as are reasonably necessary for, and in conjunction with, such submarine cables and related facilities and electricity production activities.

Rights.

- 1.2 The rights granted hereby shall be exclusive pursuant to section 20 (Relationship among Permits, Licences and Concessions) of the Ordinance; PROVIDED, HOWEVER, that this Concession:
- (a) is limited to the generation of energy for transmission to the island of Saint Kitts;
 - (b) is limited to the generation of electricity for transmission to the island of Saint Kitts and such energy shall be distributed to a Person on Saint Kitts as distinguished from a person on any other island; and
 - (c) is limited to the generation of electricity for transmission to the [COUNTRY/ISLAND OF —NAME —] and such energy shall be distributed to a person on the [COUNTRY /ISLAND OF – NAME —] as distinguished from a person on any other [COUNTRY] [ISLAND].

Terms of Authorization.

- 1.3 Upon approval by the Government, the rights granted herein shall be automatically and irrevocably extended for a term of twenty-five (25) years from the Date of Initial Commercial Operations of the submarine cable and related facilities identified in Appendix B (Submarine Cable Landing and Related Facilities Area), hereto, and such term may be renewed upon mutual agreement of the Concessionaire and the Government for an indefinite number of further periods of five (5) years each; provided that Concessionaire is still transmitting electricity.

Forfeiture.

- 1.4 The Minister may, by written notice to the Concessionaire, declare this Concession to be forfeited if, as reported pursuant to section 3.1 (Responsibilities of the Parties), of Schedule 1, part 1 of the Ordinance, the Concessionaire wholly ceases to transmit energy through the submarine cable and Facility identified in Exhibit A, hereto, without the written consent of the Minister, for a continuous period of three (3) years or fails to make prompt, adequate and effective royalty payments to the Nevis Island Administration for a continuous period of [____] months. The Minister shall provide Concessionaire notice of his intention to declare the Concession to be forfeited and shall provide the Concessionaire a cure period of ninety (90) calendar days.

Royalties.

1.5 Commencing on the date Concessionaire has transmitted energy and realized its first payment there for, the Concessionaire shall pay to the Government a Royalty pursuant to section 50 of the Ordinance (Fees and Royalty Payments) and [as set forth in the Third Schedule (Fees and Royalty Payments) of this Ordinance] [as follows]: [SET FORTH NEGOTIATED ROYALTY PAYMENTS] [*The percentage figures set forth in Section 6 (b) (Royalties) of the Third Schedule (Fee, Bond and Royalty Payments) (i.e., the determination of the value of "x") are to be negotiated.*]

[THE CONTRACTUAL PROVISIONS FROM THE FIRST SCHEDULE SHOULD BE USED TO COMPLETE THE SECOND SCHEDULE PRIOR TO EXECUTION.]

Issued for the Nevis Island Administration

By

[SIGNATURE]

[NAME]

The Minister of Natural Resources

[TITLE]

This ____ day of the month of ____, of the year 20 ____.

For the [Grantee]

By

[SIGNATURE]

[NAME]

[TITLE]

This ____ day of the month of ____, of the year 20 ____.

THIRD SCHEDULE**FEE, BOND AND ROYALTY PAYMENTS**

1. **Application Fees for a Person Registered under the Companies Ordinance — Class I Geothermal Resources.**
 - (a) Application Fees for Permits shall be set at not less than US\$100.00;
 - (b) Application Fees for Licences shall be set at not less than US\$1,000.00, except for tender fees. Tender Fees for submitting a response to a tender for competitive bidding (Section 33) shall be set at not less than US\$2,000.00;
 - (c) Application Fees for Concessions shall be set at not less than US\$2,000.00.
2. **Application Fees for a Person Registered under the Companies Ordinance — Class II Geothermal Resources.** Application Fees for Concessions shall be set at not less than US\$1,000.00.
3. **Application Fees for a Person Registered under the Companies Ordinance — Special Concessions for Landing Submarine Cables.** Application Fees for Special Concessions for Landing Submarine Cables shall be set at not less than US\$5,000.00.
4. **Annual Fees for Class I Geothermal Resources.** Annual Fees for Licences shall be set at—
 - (a) One (1) to five (5) U.S. Dollars (US\$1.00–5.00) per acre or fraction thereof per year for Licence years one (1) and two (2);
 - (b) Five (5) to ten (10) U.S. Dollars (US\$ 5.00–10.00) per acre or fraction thereof per year for Licence years three (3) and four (3); and
 - (c) Ten (10) to twenty (20) U.S. Dollars (US\$10.00–20.00) per acre or fraction thereof per year for Licence years five (5) and following.
5. **Bonds.** Bonds posted for each Well shall be set not less than US\$10,000.00. Performance Bonds posted for reclamation shall be set at not less than US\$75,000.00.
6. **Royalties.** Commencing on the date Concessionaire has generated and has realized its first payment for ten (10) megawatts of capacity, the Licensee shall pay to the Government a Royalty, on terms and conditions as follows:
 - (a) Such Royalty shall be calculated as of the last calendar day of the twelfth (12th) month following the day of receipt of such payment for any capacity in excess of ten (10) megawatts and as of each twelve (12) months thereafter. That date (hereinafter the “Royalty Date”) shall be entered by the Parties on the following line and initialled.

The ____ day of the month of ____ of the year ____.
 - (b) The value of the Royalty for each twelve (12) month cycle shall be calculated using the following formula. The value of “x” percent shall be negotiated in the First Schedule Geothermal Resources Contract, section 3.5 (Royalties).

x (a-b) (y-10)

Where $x =$

- percent during twelve (12) month cycles 1-5
- percent during twelve (12) month cycles 6-10
- percent during twelve (12) month cycles 11-15
- percent during twelve (12) month cycles 16-20
- percent during twelve (12) month cycles 21-30
- percent during twelve (12) month cycles more than 30

Where $a =$ Gross payments actually received by the Licensee from all buyers of its capacity during the preceding twelve (12) month cycle.

Where $b =$ All interest and principal paid or accruing during the preceding twelve (12) month cycle by the Licensee on the debt service of all capital debts incurred by the Licensee directly related to the Concession.

Where $y =$ Total megawatts produced by Concessionaire during a given twelve (12) month cycle.

- (c) Royalties are due and payable ninety (90) days after the first twelve (12) month anniversary date and each subsequent anniversary date of the Royalty Date.
 - (d) Royalty payments shall be paid in United States Dollars as set forth in the applicable Geothermal Resources Contract.
 - (e) If the Royalties hereinbefore provided for shall not be paid within thirty (30) days of the due date, the Government may impose interest at the prime rate, and if not paid within one hundred eighty (180) days of the due date the Government may order forfeiture of the Concession.
- _____