



AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE
STATE OF JOHOR**

AND

**THE PUBLIC UTILITIES BOARD
OF THE REPUBLIC OF SINGAPORE**

**AGREEMENT BETWEEN THE GOVERNMENT OF THE
STATE OF JOHOR AND THE PUBLIC UTILITIES
BOARD OF THE REPUBLIC OF SINGAPORE**

Parties.

THIS AGREEMENT is made the 24th day of November, 1990 between the Government of the State of Johor (hereinafter referred to as "the Johor Government") of the one part and the Public Utilities Board of the Republic of Singapore and its successors in title (hereinafter referred to as "PUB") of the other part.

Recitals.

WHEREAS the Johor Government and the City Council of the State of Singapore (hereinafter referred to as "the City Council") have on the 29th day of September 1962 entered into an Agreement (hereinafter referred to as "the 1962 Johore River Water Agreement") whereby the Johor Government grants to the City Council the full and exclusive right and liberty to draw off, take, impound and use the water of the Johor River up to a maximum of 250 million gallons a day subject to the terms, provisions, conditions and stipulations of the said Agreement:

AND WHEREAS the water, gas and electricity undertakings of the City Council and all existing agreements

affecting the City Council in relation to such undertakings were transferred to PUB by virtue of Sections 40 and 41 of the Public Utilities Act 1990 Edition (Cap. 261) of Singapore:

AND WHEREAS the Government of Malaysia (hereinafter referred to as "the Malaysian Government") and the Government of the Republic of Singapore (hereinafter referred to as "the Singapore Government") have on the 28th day of June 1988 signed a Memorandum of Understanding providing, inter alia, that Singapore shall proceed with the construction of the Linggiu Dam, pipelines and ancillary works under the 1962 Johore River Water Agreement at her own cost, and that Singapore shall purchase treated water from the Johor Government in excess of her entitlement of 250 million gallons per day of water under the said Agreement:

AND WHEREAS the Johor Government and the Singapore Government have on the 20th day of March 1990 signed an Agreement relating to the price of the treated water to be supplied by the Johor Government to PUB under the said Memorandum of Understanding of the 28th day of June 1988:

AND WHEREAS the Johor Government and PUB are desirous of concluding an agreement for the implementation of the provisions of the said Memorandum of Understanding dated the 28th day of June 1988 relating to the supply of treated water by the Johor Government to PUB:

NOW IT IS HEREBY AGREED AS FOLLOWS:

Definitions.

1. In this Agreement the following words and expressions have the meanings assigned to them except where the context otherwise requires -

(a) "catchment area" means the area delineated in yellow upon a map which will be deposited in the office of the Director of Survey, Johor. A certified true copy of the map is attached hereto as Enclosure "A";

(b) "PUB" means the Public Utilities Board of the Republic of Singapore, a statutory corporation established under Section 3 of the Singapore Public Utilities Act 1990 Edition (Cap. 261);

- (c) "Project" means the Linggiu Dam and the other ancillary permanent works in connection therewith as described in Annexure I to this Agreement;
- (d) "Reservoir" means the area delineated in blue upon a map which will be deposited in the office of the State Secretary, Johor. A certified true copy of the map is attached hereto as Enclosure "B";
- (e) "State" means the State of Johor;
- (f) "State Authority" has the meaning assigned to it under the National Land Code 1965 of Malaysia (Act No. 56/65);
- (g) "State land" has the meaning assigned to it under the National Land Code 1965 of Malaysia (Act No. 56/65);
- (h) "S.S.I." means the State Secretary, Johor, a body corporate incorporated under the State Secretary Johor (Incorporation) Enactment, 1953; and

- (i) "water treatment plant" means the new plant as described in Annexure I of this Agreement.

Consideration.

2. In consideration of PUB agreeing to build at its own cost and expense the Linggiu Dam and other ancillary permanent works in connection therewith and thereafter to run, operate and maintain at its own cost and expense the dam, reservoir and ancillary permanent works in connection therewith (hereinafter referred to as "the Project"), the Johor Government agrees to sell treated water generated from the Linggiu Dam to PUB in excess of the 250 million gallons per day of water under the 1962 Johore River Water Agreement, subject however to the provisions of Clauses 8, 9 and 10 of this Agreement.

Designs, etc. to be undertaken by competent Consulting Engineers.

3. PUB agrees that -

- (a) the design, preparation of plans and supervision of the construction of the Project shall be undertaken by competent Consulting Engineers appointed by PUB with the concurrence of the Johor Government;

Dam Expert.

- (b) it shall appoint an independent Dam Expert to examine the design and make inspection at various stages of construction of the Project to ensure that the design and construction of the Linggiu Dam and other ancillary works in connection therewith conform with the current safety practices;

Submission of Design Report, etc.

- (c) upon the commencement of the construction of the Project, it shall submit to the Johor Government design reports and contract documents which shall include plans for the Project;

As-built plans and Report.

- (d) upon the completion of the Project, it shall submit to the Johor Government as-built plans and a detailed engineering report consisting of descriptions of the various components, geology and design practice for the Project as well as operational and maintenance manuals for the operation and maintenance of the Dam;

Inspection of
Project by
Malaysian and
State
Government's
employees, etc.

- (e) it shall permit any authorised officer, servant, agent or employee of the Malaysian Government and the Johor Government to enter and inspect at any time the Project or any part thereof or all or any of the works;

Adequacy of
designs.

- (f) notwithstanding the PUB's Consulting Engineers and the designs, plans and specifications of the Project are approved by the Johor Government, and notwithstanding the inspection of the Project by the Malaysian Government's and Johor Government's officers, servants, agents or employees, responsibility for the adequacy of the said designs, plans and specifications of the Project shall continue to remain with PUB;

Certificate for
impounding
water, etc.

- (g) upon the completion of the Project, it shall furnish to the Johor Government a copy of the Preliminary Certificate duly issued and certified by PUB's Consulting Engineers specifying that the Linggiu Dam and other ancillary permanent works in connection therewith are sound and satisfactory and that it is safe to impound water;

Final Certificate.

- (h) it shall furnish to the Johor Government, after the reservoir (created by the Linggiu Dam) has been first filled to the designed top water level, a copy of the Final Dam Certificate duly issued and certified by PUB's Consulting Engineers certifying that the Linggiu Dam and other ancillary permanent works in connection therewith are safe for further operation;

Approvals and Certificates.

- (i) it shall at its own cost and expense apply for and obtain from all relevant authorities, such as the Department of the Environment, Factories and Machinery Department, Fire Department and Tenaga Nasional Berhad, the required approvals and certificates before operation of the Linggiu Dam and other ancillary permanent works in connection therewith and the water treatment plant. The Johor Government shall however endeavour to ensure that the necessary approvals referred to herein shall not be unreasonably withheld;

**Use of reservoir
and catchment
area.**

- (j) it shall, upon receipt of a written notice from the Johor Government, which notice shall be given not less than 14 days, grant permission to any person or persons named therein to undertake any tourism and inland fisheries or other economic or commercial activities in the reservoir or catchment area:

Provided that PUB may, after having satisfied the Johor Government that the quality of water would be adversely affected, prohibit any such undertaking or activity in any of the said areas;

**Board's
responsibility to
prevent floods
and liability to
indemnify.**

- (k) it shall take all precautions to prevent flooding which may be caused by the construction of the Project and the water treatment plant or due to the running, operation, or maintenance of the Project and the water treatment plant;

**Minimum low
flow.**

- (l) it shall release the required quantity of water from the Dam in order to maintain the required minimum

low flow in the Johor River and its tributaries as determined by the relevant Malaysian authority;

PUB to indemnify State Government, etc.

(m) it shall be liable for and shall compensate and indemnify the Johor Government, the S.S.I. and any other person in respect of any personal liability, injury, damage, loss, claim or proceedings whatsoever and howsoever arising during the construction of the Project and during the running, operation or maintenance of the Project and the water treatment plant;

Protection, safety and security of other lands and their use.

(n) it shall ensure that the Project and the water treatment plant shall not during their construction, after their completion, or at any time during the running, operation or maintenance of the Project and the water treatment plant affect the safety and security of -

(i) any other land whether or not such land adjoins the land for the Project, and all existing and future lawful use of such land;
and

(ii) any existing or future utilities and services whether above, on, or below any land, including but not necessarily limited to electricity, telecommunications, water supply, gas, drainage and sewerage utilities and services, provided that such future use for such utilities and services is not inconsistent with the use of the land for the Project;

Permits and approvals.

(o) in the carrying out of its responsibilities under sub-clause (n), it shall arrange, consult, co-operate, liaise with and obtain all the necessary permits and approvals of the appropriate Authorities, and shall comply with all the conditions, orders, requirements and instructions of such appropriate Authorities in relation to such permits and approvals. The Johor Government shall however endeavour to ensure that the necessary approvals referred to above shall not be unreasonably withheld;

Compliance with laws.

(p) it shall comply with the provision of any Federal or State law and such rules, regulations, orders, instructions or other subsidiary legislation made thereunder;

Malaysian Inter-Departmental Committee on Dam Safety.

(q) it shall comply with the guidelines issued by the Malaysian Inter-Departmental Committee on Dam Safety;

Notices and approvals.

(r) it will give all necessary notices to and obtain all necessary approvals, permissions or sanctions of the local Authority or any other Authority that may be required in respect of the Project and the water treatment plant. The relevant local Authority or other Authority shall however endeavour to ensure that the necessary approvals herein referred to shall not be unreasonably withheld; and

Malaysian Contractor, Labour, etc. to be employed.

(s) unless approved by the Johor Government, it shall employ such companies, contractors, personnel, labour and, to the extent possible, equipment and materials of Malaysian origin for the Project and

the water treatment plant, provided always that such approval shall not be unreasonably withheld;

**Grant of
Contractual
Lease of land for
reservoir and
catchment areas.**

4. The Johor Government agrees that -

- (a) the State land to be utilised for the catchment area and the reservoir for the purposes of the Project, totalling approximately 21,600 hectares, the actual area and boundary to be determined on final survey, (and shown in yellow and blue respectively on the maps, copies of which are attached hereto as Enclosures "A" and "B") formerly gazetted as forest reserves, namely, the forest reserve of Kluang, Ulu Sedeli and Lenggor (including wildlife reserves therein), and that such reserves have been revoked in accordance with the relevant State laws and have since been alienated by the State Authority to the S.S.I. for the S.S.I. to grant a contractual lease of the said land to PUB for the remaining period of the 1962 Johore River Water Agreement;

**Lease
Agreement.**

- (b) the lease agreement referred to in sub-clause (a) herein shall be subject to the terms and conditions

and in the form attached to this Agreement as
Annexure II;

**Alienation of
land for water
treatment plant
and ancillary
works.**

- (c) it will alienate to PUB State land which will be required for the purpose of the construction of a water treatment plant and other ancillary permanent works;

State Lease.

- (d) the title to be issued in respect of the land referred to in sub-clause (c) herein shall be in the form of a State Lease for the remaining period of the 1962 Johore River Water Agreement; and

**Premium and
Rent.**

- (e) the premium for the land referred to in sub-clause (c) herein shall be calculated at the rate of M\$18,000 per hectare and an annual rent at the rate of M\$30 for every 1,000 square feet of the said land. The annual rent will be subject to any revision imposed by the State Authority under the provisions of the National Land Code of Malaysia (Act No. 56/65).

**Payment in
respect of
claims.**

5. In addition to the payment specified in Clause 4(e) of this Agreement, PUB agrees to pay to the Johor Government immediately upon the signing of this Agreement and the Agreement between the Malaysian Government and the Singapore Government guaranteeing the due performance and observance of the terms of this Agreement a sum of M\$320 million as compensation for the permanent loss to the use of the land referred to in Clause 4(a), the loss of revenue from logging activities in the form of premium, royalty and cess payment and the one-time up front payment for the leasing of the said land, inclusive of rentals for the remaining tenure of the 1962 Johore River Water Agreement.

**Ownership of
Linggiu Dam.**

6. It is hereby agreed between the parties that -

(a) upon the completion of the Project, the ownership of the Linggiu Dam and other ancillary permanent works in connection therewith shall remain vested in the State as the property of the State;

**Ownership of
treatment plant.**

(b) the water treatment plant and ancillary permanent works in connection therewith belong to PUB; and

PUB's duty to maintain.

- (c) PUB shall until such time as they are handed over to the State Government, maintain in a good and tenable condition and state of repair the Linggiu Dam, the reservoir, the water treatment plant, buildings, fixtures, ancillary works, hydrological gauging stations, equipment and machinery and the land on which they stand.

Ownership of water treatment plant, etc. upon expiry of State Lease.

7. Upon the expiration of the State Lease referred to in Clause 4(d) of this Agreement, the water treatment plant and all the ancillary permanent works constructed in connection therewith shall vest in the State as the property of the State.

Pricing formula of treated water.

8. It is expressly agreed between the parties hereto that -
- (a) PUB shall purchase treated water from the State of Johor in excess of her entitlement of 250 million gallons per day of water under the 1962 Johore River Water Agreement at the price of either -
- (i) the weighted average of Johor's water tariffs plus a premium which is fifty per

cent of the surplus from the sale of this additional water by PUB to its consumers after deducting Johor's water price and PUB's cost of distribution and administration of this additional water, or

- (ii) 115 per cent of the weighted average of Johor's water tariffs,

whichever is higher;

Quantity of treated water to be supplied.

- (b) the Johor Government agrees to sell and PUB agrees to purchase the treated water of such an amount as may be agreed between the two parties hereto;

Delivery at agreed points.

- (c) the treated water shall be delivered to PUB at points and pressures in the State of Johor to be agreed between the parties hereto; and

Price on annual basis.

- (d) computation for the payment of the price of treated water supplied by the State of Johor to

PUB shall be done on an annual basis and at the beginning of each year of supply.

Quality of water,
etc.

9. The Johor Government agrees that -

(a) the quality of the treated water supplied to PUB under this Agreement shall conform with the prevailing World Health Organization's guidelines for drinking water;

Emergency.

(b) except in unusual circumstances or in the case of an emergency, or where the raw water is polluted to a degree that it cannot be treated to produce water in conformity with the World Health Organization's guidelines for drinking water, or for the purpose of maintenance, the supply of treated water shall not be cut off or reduced; and

Construction of
treatment plant,
etc.

(c) it shall build and pay for the treatment plant and facilities, if necessary, for the treatment of water to be supplied to PUB under this Agreement.

Date of commencement of supply.

10. The supply of treated water to PUB shall commence within such period as may be agreed upon between the Johor Government and the PUB.

Johor Government's assistance.

11. The Johor Government shall render every assistance to the PUB in the discharge of its obligations under this Agreement.

Protected place.

12. The land within which the Linggiu Dam, the reservoir, the catchment area and the water treatment plant are to be situated will be declared a protected place under the Protected Areas and Protected Places Act 1959 (Revised 1983) (Act 298).

Waiver.

13. Failure by any party to enforce at any time any of the provisions of this Agreement shall not be construed as a waiver or as a waiver of any continuing breach of such provision or any other provision of this Agreement or as a waiver of any right under this Agreement.

Arbitration.

14. (a) Any dispute or difference between the parties hereto arising out of or relating to this Agreement or the breach, termination or validity thereof which cannot be resolved amicably by discussions

between the parties hereto shall be settled by arbitration in accordance with the Rules of the Regional Centre of Arbitration at Kuala Lumpur for the time being in force.

Appointment of arbitrators, etc.

- (b) The number of arbitrators shall be three; each party shall appoint one arbitrator and the third arbitrator shall be appointed by agreement between the arbitrators so appointed, or in default of agreement, to be appointed by the Director of the Regional Centre of Arbitration at Kuala Lumpur. Notwithstanding the provisions of the Rules of the Centre, the third arbitrator shall not be a national of any of the countries of the parties hereto.

Venue of arbitral proceedings, etc.

- (c) The arbitral proceedings shall be held in Kuala Lumpur or in the State of Johor and the language to be used shall be English.

Arbitration not an excuse for non-performance of obligations.

- (d) Where a matter is referred for resolution under this clause, it shall not prevent or constitute a valid excuse for either party from performing their respective obligations under this Agreement.

Governing law. 15. This Agreement shall be governed by, and be construed in accordance with, the laws of Malaysia and the parties hereto agree to be bound by the award of the arbitrators and to submit to the jurisdiction of the courts of Malaysia.

Expiry. 16. This Agreement shall expire upon the expiry of the 1962 Johore River Water Agreement. The parties hereto may, however, on such terms and conditions as may be agreed, extend this Agreement beyond the original term.

Costs. 17. (a) The parties hereto shall each bear its own solicitor's cost for the preparation of this Agreement;

(b) PUB shall bear all the costs and fees for the stamping and registration of the contractual lease referred to in Clause 4(a) of this Agreement.

Notices. 18. (a) Any notice, permissions, or request to be given or made under this Agreement to the Johor

Government or PUB shall be in writing and sent to or delivered at the respective address specified below -

For the Johor Government

Pejabat Setiausaha Kerajaan,
Aras 1, Bangunan Sultan Ibrahim,
Bukit Timbalan,
80503 Johor Bahru.

For PUB

Chief Executive's Office,
16th Floor, PUB Building,
111 Somerset Road,
Singapore 0923.

- (b) Any such notice, permission or request shall be deemed to have been sufficiently given or made if left at, or sent by registered post to the respective address set out in sub-clause (a) and in the latter case shall be deemed to have been served on and duly received by the other party on the date on which it would have been received in the ordinary course of post.

ANNEXURE I

1. DESCRIPTION OF THE PROJECT (CLAUSE 1(c))

The Project to be constructed in the district of Linggiu, State of Johor comprises the following:

- (a) Linggiu Dam, an earthfill embankment with an impervious clay core having a height of approximately 42 metres and containing approximately three million cubic metres of fill;
- (b) other ancillary permanent works in connection with the Linggiu Dam comprising four earthfill saddle embankments containing approximately two million cubic metres of fill in total, a reinforced concrete drawoff tower having a height of approximately 52 metres, spillway, stilling basin, access roads, bridges and other related works; and
- (c) at least four hydrological gauging stations.

2. **DESCRIPTION OF THE NEW WATER TREATMENT PLANT
(CLAUSE 3(f))**

The new water treatment plant for treating raw water comprises an intake, treatment process units for aeration, flocculation, sedimentation and filtration, and other permanent components such as clear water tank, pumping station, power substation, administration building, chemical store rooms, quarters, mechanical and electrical installation, sludge treatment and disposal facilities, where the site for such sludge disposal must be adequately rehabilitated.

ANNEXURE II

(Clause 4(b) of the Agreement).

LEASE AGREEMENT

THIS AGREEMENT is made the 24th day of November, 1990 between the State Secretary, Johor, a body corporate established under the State Secretary, Johor (Incorporation) Enactment, 1953 and having its principal office at Pejabat Setiausaha Kerajaan, Aras 1, Bangunan Sultan Ibrahim, Bukit Timbalan, 80503 Johor Bahru (hereinafter referred to as "the Lessor") of the one part and the Public Utilities Board of the Republic of Singapore having its principal office at PUB Building, 111 Somerset Road, Singapore 0923 (hereinafter referred to as "the Lessee") of the other part.

WHEREAS the Lessor is the registered proprietor of all that piece of land held under H.S.(D) 1647 and H.S.(D) 1648 in the District of Mersing, H.S.(D) 25314 in the District of Kluang and H.S.(D) 8573 in the District of Kota Tinggi and totalling approximately 21,600 hectares, the actual area and boundary to be determined on final survey, (hereinafter referred to as "the said land"):

AND WHEREAS the Lessee has applied to the Government of the State of Johor to develop the said land for the construction of the Linggiu Dam and for the purpose of the reservoir and catchment area (hereinafter referred to as "the Project") for the supply of water pursuant to the 1962 Johore River Water Agreement signed between the Government of the State of Johor and the City Council of the State of Singapore and its successors in title on the 29th day of September 1962 (hereinafter referred to as "the 1962 Johore River Water Agreement"):

AND WHEREAS the Government of the State of Johor has approved the said application and for the said purposes has alienated the said land to the Lessor and the Lessor shall herein grant to the Lessee a lease over the said land for the remaining period of the 1962 Johore River Water Agreement:

NOW IT IS HEREBY AGREED as follows:

1. In consideration of the premises herein, the Lessor hereby grants to the Lessee and the Lessee hereby accepts the lease over the said land for the period remaining under the 1962 Johore River Water Agreement to develop the said land and undertakes thereon the Project upon terms and conditions hereinafter contained which shall be read together with the Agreement dated the 24th day of November 1990, entered into between the Government of the State of Johor and the Public

Utilities Board of the Republic of Singapore (hereinafter referred to as "the said Agreement").

2. COVENANTS BY LESSOR

- (a) The Lessor shall deliver vacant possession of the said land to the Lessee upon registration of the lease under the National Land Code, 1965 and pending delivery of possession of the said land to permit the Lessee, its agents and servants to enter the said land for purposes related to the implementation of the Project.
- (b) The Lessor shall procure the relevant authority to take all steps necessary to remove or relocate all persons (if any) presently in occupation of the said land before delivery of vacant possession of the said land to the Lessee.
- (c) The Lessor will endeavour to render all assistance to the Lessee to do all such reasonable things requested by the Lessee as may be necessary for the carrying out of the Project.

3. COVENANTS BY LESSEE

- (a) The Lessee shall pay to the Government of the State of Johor the sum stipulated in Clause 5 of the said Agreement for the grant of the lease over the said land by the Lessor.
- (b) The Lessee shall within six (6) months from the date of delivery of vacant possession of the said land by the Lessor submit all the building plans and drawings related to the Project to the Government of the State of Johor and other relevant Authorities for their approval.
- (c) The Lessee shall obtain all the necessary permits and licences from the relevant Federal and State Authority (whenever required) in respect of any work to be carried out on the said land in the implementation of the Project.
- (d) The Lessee shall use the said land for the purposes of the Project consistent with the approved building plans.

- (e) The Lessee shall consult with and obtain the Lessor's consent if the Lessee wishes to undertake any development or reconstruction of the Project which departs from the approved building plans.
- (f) The Lessee shall be responsible to maintain and upkeep all such parts of the said land in a proper manner including all the boundary marks and to permit the Lessor or its representatives reasonable access to inspect the same.
- (g) The Lessee, its agents and servants in undertaking the Project shall allow the Lessor and its representatives all reasonable access to the said land to inspect the progress of the Project.
- (h) The Lessee shall upon commencement of the construction of work on the Project secure the efficient maintenance and operation of the Project, in particular the general characteristics of run-off in the catchment area should be preserved and all necessary steps should be taken to prevent as far as possible the said land from being liable to lead to soil erosion or flash flooding.

- (i) The Lessee shall at all times during the period of this lease effect and maintain adequate insurance coverage which shall comply with the laws of Malaysia. This coverage shall include public liability insurance.

- (j) The Lessee shall not transfer, charge, sublet or otherwise part with the possession of the said land without the prior consent in writing of the Lessor.

- (k) The Lessee shall comply with and be subject to the statutory requirements of the National Land Code 1965 and rules made thereunder.

- (l) The Lessee shall indemnify the Lessor against all actions, claims, demands, damages and expenses, whatsoever which may be taken, made or claimed against the Lessor arising out of the use of the said land for purposes related to the Project.

4. SUCCESSORS

This Lease Agreement shall be binding on the Lessor and Lessee, their respective successors in title or assigns.

IN WITNESS WHEREOF THE PARTIES HEREBUNTO HAVE SET THEIR
HANDS AND SEALS ON THE FIRST ABOVE-WRITTEN DAY AND YEAR.

The Corporate Seal of THE
STATE SECRETARY, JOHOR
has hereunto been affixed
in the presence of:

.....
STATE SECRETARY
JOHOR

The Common Seal of THE
PUBLIC UTILITIES BOARD,
SINGAPORE has hereunto
been affixed in the
presence of Lee Yong Siang,
Chief Executive, and
Ong Ho Sim, Director,
Water Department, the
person duly authorised
by the Board in that behalf:

.....
CHIEF EXECUTIVE
PUBLIC UTILITIES BOARD
SINGAPORE

.....
DIRECTOR
WATER DEPARTMENT