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**AGREEMENT FOR THE CONTRIBUTION OF ASSETS**

**DATED 25 JUNE 2007**

**AMENDED BY ADDENDUM**

**DATED 7 NOVEMBER 2007**

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**By and between the undersigned**

**Electricité de France**, a *société anonyme* with a share capital of 911,085,545 euros, having its registered offices at 22-30, avenue de Wagram – 75008 Paris, registered in the Paris Trade and Companies Register under the number 552 081 317,

Represented by Mrs Anne Le Lorier, duly authorised for the purposes of this agreement,

Hereinafter referred to as the "**Contributor**" or "**EDF**",

**and**

**C6**, a *société anonyme* with a share capital of 37,000 euros, having its registered offices at Tour Winterthur, 102 terrasse Boieldieu - 92085 Paris La Défense Cedex, registered in the Nanterre Trade and Companies Register under the number 444 608 442,

Represented by Mr Michel Francony, duly authorised for the purposes of this agreement,

Hereinafter referred to as the "**Beneficiary**" or "**C6**",

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## WHEREAS:

The purpose of this agreement (the "**Agreement**") is to lay down the terms and conditions under which, in accordance with Articles 13 et seq. of Law No. 2004-803 of 9 August 2004 concerning the electricity and gas public service and electricity and gas companies as amended by Law No. 2006-1537 of 7 December 2006 concerning the energy sector (hereinafter referred to as the "**SPEGEEG Law**"), a transfer shall be made by way of a contribution of assets ("*apport partiel d'actifs*") from EDF to C6, of specific property, authorisations, rights and obligations pertaining to the activity of operator of the EDF electricity distribution network in Metropolitan continental France, defined for the purposes of this Agreement as being the territory of France excluding Corsica, French Overseas Departments and French Overseas Territories (including the territory of islands which are interconnected with this territory, as well the territory of the following non-interconnected islands: Ouessant, Chausey, Molène, Sein, Saint Nicolas du Glénan, said islands being deemed to be included within the Metropolitan continental territory for the purposes of this Agreement) (hereinafter the "**Metropolitan Continental Territory**").

In accordance with the option provided for in Article L. 236-22 of the Commercial Code, this contribution is placed within the legal framework governing divisions and spin-offs as defined in Articles L. 236-16 to L. 236-21 of said code, subject however to the terms of Articles 13 et seq. of the SPEGEEG Law.

The main characteristics of the Contributor and of the Beneficiary, together with the reasons and aims of the contribution, the accounts used to determine the terms of the contribution, the valuation methods used and the operations which have been undertaken and will be undertaken concerning the Beneficiary, are set out below.

## CHARACTERISTICS OF THE PARTIES TO THE AGREEMENT

### 1. ÉLECTRICITÉ DE FRANCE

EDF is a *société anonyme* registered in the Paris Trade and Companies Register under the number 552 081 317.

It has the following object, in France and abroad:

- to provide for the generation, transmission, distribution, supply and trading of electrical energy and to provide for the importing and exporting of said energy,
- to assume the public service tasks attributed to it by laws and regulations, in particular by the Law of 15 June 1906 concerning energy distribution, the Law of 8 April 1946, the Law of 10 February 2000 concerning the modernisation and development of the public service of electricity supply and Article L. 2224-31 of the General Code for Local Authorities (*Code général des collectivités territoriales*), and by various concession agreements, including in particular the tasks of developing and operating the public electricity networks and the tasks of supplying electricity to non-eligible customers, supplying backup electricity to manufacturers and to customers with the aim of mitigating unforeseen supply failures and supplying electricity to eligible customers who can find no

supplier, contributing to achieving the aims defined by the multi-annual programming of generation investments as set forth by the Minister in charge of the Energy sector,

- more generally, to develop any industrial, commercial or service-sector activity, including research and engineering, in the field of energy, for any category of clientele,
- to maintain and develop the value of all moveable and real property assets which it holds or uses,
- to create, acquire, lease, or operate as lessee manager, any moveable asset, real property and business concerns, to lease, install and operate all establishments, business concerns, factories or workshops which pertain to any of the aforementioned objects,
- to register, acquire, exploit or dispose of all processes and patents concerning the activities pertaining to any of the aforementioned objects,
- to take part, directly or indirectly, in any and all operations which may be connected with any of the aforementioned objects, by creating new companies or enterprises, by way of contribution, subscription to or purchase of shares or other corporate rights, by acquisition of interests, merger, association, partnership or any other manner,
- and, more generally, to take part in any and all industrial, commercial and financial operations, and those concerning moveable asset or real property, connected directly or indirectly, in whole or in part, to any one of the aforementioned objects, to any similar or related objects and to any objects which would be such as to favour or develop the company's business.

EDF was transformed into a *société anonyme* on 20 November 2004. Its duration is 99 years as of that date.

Its share capital is fixed at the sum of 911,085,545 euros, divided into 1,822,171,090 shares of a par value of 0.50 euros each, fully paid up.

EDF offers its securities for subscription by the general public, including in particular by having its shares listed on a regulated stock exchange market.

Its financial year begins on 1 January and ends on 31 December of each year.

## 2. C6

C6 is a *société anonyme* registered in the Nanterre Trade and Companies Register under the number 444 608 442.

It has the following object:

- the exercise in France, under conditions laid down by the concession specifications provided for in subsection I of Article L. 2224-31 of the General Code for Local Authorities, of public service tasks falling to it pursuant to the Law of 15 June 1906, Law No. 46-628 of 8 April 1946, the aforementioned Laws of 10 February 2000 and of 9 August 2004 and, in particular: the tasks of developing, operating and maintaining the public electricity distribution network, consisting notably in:

- defining and implementing policies for investment in and development of the networks;
  - providing for the design, planning and construction of structures and facilities, together with project management for works pertaining to these networks;
  - providing for the connection and access of users to these networks under objective, transparent and non-discriminatory conditions, and interconnection with other networks;
  - providing for the balancing, at all times, of electricity flows over the networks, and the safety, security and efficiency of these networks;
  - negotiating, concluding and managing concession contracts;
  - exercising the activities of metering for users connected to these networks, in particular the supply, laying, metrological control, maintenance and renewal of metering apparatus, and the management of data and all tasks pertaining to all of these activities;
  - providing services for non-nationalised distributors and organising authorities and distributors mentioned respectively in subsections III and IV of Article L. 2224-31 of the General Code for Local Authorities;
  - and, more generally, carrying out any and all industrial, commercial or financial operations or those concerning real estate which are connected to the aforementioned object.
- the indirect operation, that is to say through holdings or subsidiaries, in France or in Member States of the European Community or of the European Free Trade Association, of electricity or gas networks, provided that this activity remains ancillary to the direct operation of networks and does not receive financial assistance from the same;
  - maintaining and enhancing, through the intermediary of subsidiaries or holdings, the value of the networks that it operates, provided that this activity remains ancillary to its network operation activity and does not receive financial assistance from the same, and provided that the company cannot grant collateral or backing of any nature in favour of this activity;
  - maintaining and enhancing the value of its skills, particularly in engineering, through the intermediary of subsidiaries or holdings and provided that this activity remains ancillary to its network operation activity.

C6 was formed on 23 December 2002 for a duration of 99 years.

Its share capital is fixed at the sum of 37,000 euros. It is divided into 74,000 shares with a par value of 0.50 euros each, fully paid up (following the completion of those operations described in points (ii) to (iv) of the paragraph entitled “Description of the operations which have been undertaken and will be undertaken concerning the Beneficiary”).

C6 has not issued any securities granting access to its capital, other than the shares making up its share capital.

C6 does not seek public subscription to its securities.

Its financial year begins on 1 January and ends on 31 December of each year.

C6 is not currently doing business and has never had any activity.

### 3. CAPITAL TIES BETWEEN EDF AND C6

At the date hereof, EDF holds more than 99.99% of the shares making up the share capital of C6.

## REASONS AND AIMS OF THE CONTRIBUTION

The contemplated contribution enters into the framework of, on the one hand, Law No. 2000-108 of 10 February 2000 concerning the modernisation and development of the public service of electricity supply, and on the other hand, the SPEGEEG Law (as defined in the recitals of this Agreement).

Pursuant to Law No. 2004-803 of 9 August 2004 concerning the electricity and gas public service and electricity and gas companies, the operation of the electricity distribution network was entrusted, within EDF, to an independent structure named, by EDF's Articles of Association in force at the date hereof, "**EDF Réseau Distribution**". EDF must keep separate accounts from those of EDF for the distribution activity (Article 25 of the aforementioned Law of 10 February 2000). EDF Réseau Distribution's tasks, as defined by the aforementioned Law of 10 February 2000 and Law No. 2004-803 of 9 August 2004 concerning the electricity and gas public service and electricity and gas companies and as specified in Article 18 of the EDF's Articles of Association in force on the date hereof, is to operate and maintain the public electricity distribution network and to take responsibility for its development in order to allow the connection of consumer's and producer's facilities, interconnection with other networks, and to ensure the balance of electricity flows at all times, the efficiency, safety and security of the network that it operates, considering the technical constraints applicable to the network (Articles 2, 18 and 19 of the aforementioned Law of 10 February 2000). The greater part of these missions is reaffirmed in Article 13 of the SPEGEEG Law. EDF Réseau Distribution is obliged to maintain the confidentiality of information of an economic, commercial, industrial, financial or technical nature which if disclosed could infringe rules of free and fair competition and of non-discrimination as imposed by the law, as such information is defined by Decree No. 2001-630 of 16 July 2001 adopted to implement Article 20 of the aforementioned Law of 10 February 2000.

Moreover, Article 5 of Law No. 46-628 of 8 April 1946 as amended by the SPEGEEG Law made it compulsory to create a structure, common to both EDF and Gaz de France, in the distribution sector, for the construction of facilities, project management of works, the operation and maintenance of the networks, metering and other tasks pertaining to these activities. The aforementioned Article 5 of the Law of 8 April 1946 also provides that each of the companies assumes the consequences of its own activities in the context of the common structure without legal personality. The costs pertaining to activities carried out for each of the companies are identified in the accounts of the common structure with no legal personality.

In this context, the EDF and Gaz de France common structure, named "**EDF Gaz de France Distribution**", has the following tasks:

- carrying out works for the construction, development and maintenance of electricity distribution structures and facilities;

- the technical operation of the networks and distribution structures and facilities;
- carrying out metering activities;
- managing day-to-day relations with local authorities and concession-granting authorities;
- managing day-to-day relations with non-eligible customers.

In order to implement, in particular, European Directive 2003/54/EC of 26 June 2003, which provides for the operation of electricity distribution networks by entities which are legally distinct from other activities not connected with distribution, where the network operator is part of a vertically integrated company, the SPEGEEG Law requires that the electricity distribution network in the Metropolitan Continental Territory be operated by a legal person which is distinct from the entity which carries out the activities of production or supply of electricity (Article 13), and that the operator of the electricity distribution network in the Metropolitan Continental Territory operates, maintains and develops this network in an independent manner (Article 15).

For this purpose, Article 14 (as amended) of the SPEGEEG Law organises the transfer, to a legally distinct entity, of the specific property, authorisations, rights and obligations pertaining to the activity of operator of the electricity distribution network in the Metropolitan Continental Territory, including where held as concessionary or as subcontractor of a concessionary, including employment contracts and the rights and duties arising in the operation of the distribution network as a consequence of concession agreements provided for in subsections I and III of Article L. 2224-31 of the General Code for Local Authorities. The SPEGEEG Law also provides that the transfer will not cause any change in outstanding authorisations and contracts, whatever their legal nature, and shall not be cause for the termination or amendment of all or part of their clauses nor, where applicable, the repayment of any debts arising thereunder.

Subject to the provisions of Articles 12 and 24 of the Law of 10 February 2000 and Articles 10, 36 and 37 of the SPEGEEG Law, Article L. 2224-31 of the General Code for Local Authorities defines the public electricity distribution network as being comprised of:

- structures and facilities of a voltage less than 50 kV located in the territory of the authority which organises the distribution of electricity; and
- structures and facilities of a higher voltage which exist, in the Metropolitan Continental Territory, on the date of publication of Law No. 2004-803 of 9 August 2004 concerning the electricity and gas public service and electricity and gas companies, and which are not operated by EDF as operator of the public electricity transmission network at that same date,

with the conditions determining whether structures and facilities or parts thereof belong to the public distribution network (in particular substations for transforming electricity at high or very high voltage to medium voltage) being defined by reference to the provisions of Decree No. 2005-172 of 22 February 2005, particularly with respect to their characteristics, their functions or their date of entry into service.

Article 15-1 of the SPEGEEG Law specifies that the company which operates the electricity distribution network shall be governed, unless provided otherwise in legislation, by the laws applicable to limited companies (*sociétés anonymes*).

It is recalled that, pursuant to Article 2 of Law No. 2000-108 of 10 February 2000, C6 (operator company arising from the legal unbundling imposed on Electricité de France by Article 13 of the SPEGEEG Law) shall have a monopoly, as of the Completion Date, over the development and operation of the public electricity distribution network in the Metropolitan Continental

Territory (except for zones where other public distribution network operators or public electricity distribution organising authorities are competent).

It is in this context that the parties have concluded this Agreement, the purpose of which is to provide for the transfer by EDF to C6, a *société anonyme* in which it holds the entirety of its share capital, of all of the specific property, authorisations, rights and obligations pertaining to EDF's activity as electricity distribution network operator (within the meaning of the aforementioned legislative and regulatory provisions) in the Metropolitan Continental Territory.

## **ACCOUNTS USED TO DETERMINED THE CONDITIONS OF THE CONTRIBUTION**

The contribution balance sheet has been drawn up on the basis of the values of asset and liability items of the activity of electricity distribution network operator, as recorded on the distribution network operating structure's separate balance sheet at 31 December 2006 (which appears in Appendix 1), following those adjustments set out for in said Appendix 1.

EDF's financial statements drawn up to 31 December 2006, as approved by the Ordinary General Meeting of EDF's shareholders on 24 May 2007, appear in Appendix 2.

C6's financial statements drawn up to 31 December 2006, as approved by the Ordinary General Meeting of C6's shareholders of 29 May 2007, appear in Appendix 3.

## **VALUATION METHODS**

1. In accordance with provisions of the French Accounting Regulation Committee (*Comité de la Réglementation Comptable*) Regulation No. 2004-01 of 4 May 2004, the Parties have agreed to use the book value, at 31 December 2006, as being the value of the elements contributed by EDF.
2. Considering the fact that EDF holds more than 99.99% of the shares of C6 and that C6 shall not have exercised any activity from the time of its incorporation until the Completion Date, the remuneration for the contribution has been calculated on the basis of (i) the net book value of the contributed assets (as deriving from the contribution balance sheet) and (ii) the net book value of shares in C6 at 31 December 2006 (as adjusted in order to take into account those operations referred to in points (ii) to (iv) of the paragraph on the "Description of the operations which have been undertaken and will be undertaken concerning the Beneficiary"), i.e. 5 euros per share, it being specified that the conditions laid down in paragraph 83 of the French tax authority (*Direction générale des impôts*) Instruction 4 I-2-00 of 3 August 2000 and paragraph 16 of BOI 4 I-1-05 of 30 December 2005 shall be met.



## DESCRIPTION OF THE OPERATIONS WHICH HAVE BEEN UNDERTAKEN AND WILL BE UNDERTAKEN CONCERNING THE BENEFICIARY

Concerning the Beneficiary, between 1 January 2007 and the Completion Date (as defined hereinafter):

- (i) change of registered office;
- (ii) division of the par value of the Beneficiary's shares by twenty;
- (iii) reduction of the Beneficiary's share capital (due to losses) by an amount of 16,407 euros (by reduction of the number of shares);
- (iv) capital increase for the Beneficiary of a nominal value of 16,407 euros (by increasing the number of shares) with a share issue premium for a total amount of 333,062.10 euros;
- (v) change of company name, effective as of the Completion Date;
- (vi) change of corporate form into a *société anonyme* with a management board ("*directoire*") and a supervisory board ("*conseil de surveillance*");
- (vii) change of company object to an object specific to the activity of electricity distribution network operator;

Concerning the Contributor, between 1 January 2007 and the Completion Date (as defined below):

- (i) transfer of part of the personnel, currently in the National Accounting Unit (Unité Comptable Nationale) to an EDF entity other than EDF Réseau Distribution;
- (ii) change in the estimation of the lifespan (meters and transformer substation buildings) and replacement value of meters, with a total positive effect after income tax for the contributed activity of 338 million euros;
- (iii) adjustment, the amount of which shall be finally determined on the close of accounts for the 2007 financial year, of the energy overview (metered energy / grid losses), with a negative effect on the income of the contributed activity, partially reducing the effect of the positive effect listed in point (ii) above.

As stated in Appendix 1.1, the following operations taking place with effect as of 31 December 2006 or later have been taken into account in order to determine the scope of the contribution as defined herein and the contribution balance sheet as appearing in the Second Part of this Agreement entitled "DESCRIPTION AND VALUATION OF THE CONTRIBUTED ELEMENTS":

- (i) transfer of electricity lines between EDF's Engineering Generating Division (*Direction Production Ingénierie*) and EDF Réseau Distribution, to align the ownership of structures and facilities with the scope of activities of these structures;
- (ii) transfer to EDF Réseau Distribution of part of the activity of EDF's department for continuing professional education;

- (iii) attachment of the non-industrial buildings and housing referred to in Appendix 4 to EDF's distribution activity;
- (iv) attachment of the non-industrial buildings referred to in Appendix 5 to EDF's distribution activity;
- (v) attachment of key money, out-fitting and developments for non-industrial buildings and moveable assets associated with such out-fitting and developments, as referred to in Appendix 6, to EDF's distribution activity.

## **THEREUPON, IT HAS BEEN AGREED AS FOLLOWS:**

### **GENERAL OUTLINE**

The Agreement is divided into eight parts:

- the first part, concerning the content of the contribution by EDF to C6;
- the second part, concerning the description and valuation of the contributed elements;
- the third part, concerning ownership, possession and possessory rights;
- the fourth part, concerning the charges and conditions of the contribution;
- the fifth part, concerning the remuneration for the contribution and C6's capital increase;
- the sixth part, concerning the Contributor's representations and warranties;
- the seventh part, concerning the effective date of the contribution, the Completion Date and the conditions precedent;
- the eighth part, concerning the tax framework;
- the ninth part, concerning miscellaneous provisions.

### **FIRST PART: CONTENT OF THE CONTRIBUTION**

EDF hereby makes a contribution in favour of C6, which is accepted by C6, of all of the specific property, authorisations, rights and obligations pertaining to its activity as electricity distribution network operator in the Metropolitan Continental Territory, held as applicable as concessionary or as subcontractor of the concessionary, including employment contracts and the rights and obligations pertaining to the operation of the distribution networks arising under the concession agreements provided for in subsections I and III of Article L. 2224-31 of the General Code for Local Authorities, under those terms and conditions and subject to those reserves set out hereinbelow.

The parties hereby expressly agree that they (i) are making this contribution subject to the legal framework governing divisions and spin-offs, pursuant to Article L. 236-22 of the Commercial Code, and this contribution will be governed by Articles L. 236-16 to L. 236-21 of the Commercial Code, while however taking account of and subject to the provisions of the SPEEGEEG Law, and (ii) expressly agree to exclude any joint and several liability between EDF and C6, with respect to EDF's liabilities, in accordance with Article L. 236-21 of the Commercial Code, as C6 shall alone be bound by the liabilities included in the contribution.

It is specified that:

- the assets contributed to C6 and the liabilities assumed by it were included in EDF's assets and liabilities at the date of 31 December 2006, used in order to determine the terms of the contribution;
- the contribution shall have retroactive effect as of 1 January 2007 (at 0:00 hours) and, correlatively, the results of all transactions affecting the assets and liabilities pertaining to the contributed activity – including any taxes pertaining thereto – carried out by EDF as of 1 January 2007 until the Completion Date, shall be exclusively to C6's profit or loss and deemed from an accounting point of view to have been carried out by C6 as of the date of 1 January 2007 (at 0:00 hours);
- the following enumeration is in principle limitative, but this contribution constitutes a universal transmission of the assets and liabilities forming the contributed activity and, as a consequence, any omitted elements which is preponderantly attached to the contributed activity shall be included in this contribution, without this causing any novation, nullity or rescission of this contribution;
- as a mere consequence of the completion of the contribution, and the resulting universal transmission of the assets and liabilities of the contributed activity, all of the assets and liabilities together with all of the off-balance sheet commitments and security interests attached thereto which are included in the contributed activity shall be transferred to C6 in the condition in which they are to be found on the Completion Date.

With respect to the scope of the contribution, to which the charges and conditions appearing in the fourth part below shall apply, it is specified that:

(i) *Real property*

- The real property (land, buildings and structures) owned by EDF, including housing, the surface of which is exclusively allocated to the contributed activity, the indicative list of which appears in Appendix 4, is included in the scope of the contribution.

The real property (land, buildings and structures) owned by EDF, of which more than 50% of the surface is allocated to the contributed activity (other than those referred to in the preceding paragraph), the indicative list of which appears in Appendix 5, is included (for 100% of its surface) in the scope of the contribution. This real property shall be the subject of lease agreements granted by C6 in favour of the other occupiers.

The real property owned by EDF, of which 50% or less of the surface is allocated to the contributed activity, is not included in the scope of the contribution. This real property shall be the subject of lease agreements in favour of C6.

The key money, outfitting and developments and moveable assets associated with these outfitting and developments made or existing in non-industrial real property allocated to the contributed activity, the indicative list of which appears in Appendix 6, are included in the scope of the contribution.

By way of exception to the provisions of the preceding paragraphs, the real property (land, buildings and structures) owned by EDF (which is planned to be transferred to the company Sofilo, a wholly-owned subsidiary of EDF) the limitative list of which appears in figure Appendix 7, is not included in the scope of the contribution. This real property shall be the subject of:

- for the property appearing in Title 1 of Appendix 7, lease agreements in favour of C6, with EDF undertaking to ensure that Sofilo shall make commitments in the deeds of transfer in question to take up the existing lease agreements between EDF and C6 (or to grant such agreements in favour of C6);
- for the property appearing in Title 2 of Appendix 7, lease agreements in favour of EDF, and sublets in favour of C6, with EDF undertaking to ensure that Sofilo shall make commitments in the deeds of transfer in question to grant lease agreements in favour of EDF permitting their transfer or sublet in favour of C6.

It is specified that the lands which are not currently exploited by EDF with respect to the contributed activity and for which such an exploitation is not currently planned, but which is capable of being used for other EDF activities including real estate management (said use being assessed at the date of this Agreement), shall not be included in the scope of the contribution notwithstanding the fact that it might be included in Appendices 4 or 5 of this Agreement.

- The lease agreements concerning real property leased by EDF, including housing, exclusively allocated to the contributed activity, the indicative list of which appears in Appendix 8, are included in the scope of the contribution. It is specified, for the avoidance of doubt, that the lease agreements concerning real property held in concession which is returned to the City of Paris and which are to be concluded by and between EDF and the City of Paris between the signature of this Agreement and the Completion Date, are included in the scope of the contribution.

The lease agreements concerning real property leased by EDF, partly allocated to the contributed activity, the list of which appears in Appendix 9, are not included in the scope of the contribution, with EDF undertaking to sublet the premises concerned to C6.

- The term “non-industrial real property” shall mean buildings for office use, to the exclusion of buildings of an industrial nature or housing.”

(ii) *Industrial property*

- The rights listed in Appendix 10-1 are included in the scope of the contribution.
- The share held by EDF in patents which are co-owned by EDF and by a third party, referred to as such in Appendix 10-1c. ii), are included in the scope of the contribution.
- In the event that C6 does not wish to maintain any one of the industrial property titles included in the scope of the contribution, C6 undertakes, subject to legislative provisions in force and any co-ownership rules, to offer EDF to acquire these rights.
- It is specified, for the avoidance of doubt, that Appendix 10-1 is limitative and as a consequence, those industrial property rights which do not appear in Appendix 10-1 and yet which may be used in the context of the contributed activity, are not included in the scope of the contribution (it is however specified that this appendix shall be updated as soon as possible following the Completion Date in order to include the new industrial property rights created between the date of this Agreement and the Completion Date and which are used by the contributed activity).
- A licence over those rights listed in Appendix 10-2, under those conditions defined in said appendix, is included in the scope of the contribution.

- In the event that EDF uses those industrial property rights referred to in Appendix 10-1 for other activities than the contributed activity, they may as required be the subject of agreements for their licensing, their provision for use or otherwise by C6 in favour of EDF under such conditions, notably financial conditions, which will be provided for by contract between C6 and EDF.

(iii) *Computer applications and software*

EDF's intellectual property rights over applications and specific software which EDF holds or co-holds, and which are exclusively necessary for the contributed activity, as listed in Appendix 11, are included in the scope of the contribution.

EDF's intellectual property rights over applications and specific software which EDF holds or co-holds, and which are mainly necessary for the contributed activity and secondarily required by EDF, as listed in Appendix 11, are included in the scope of the contribution. C6 licenses to EDF, as required, those intellectual property rights which are necessary for EDF's requirements.

The intellectual property rights pertaining to certain applications and specific software which EDF holds or co-holds, and which are required by EDF for its activities other than the contributed activity and yet which are useful for the contributed activity, as listed in Appendix 11, shall be provided by EDF to C6 under licence.

The intellectual property rights pertaining to certain applications and specific software which EDF holds or co-holds, and which are indispensable both for EDF for its activities other than the contributed activity and for the contributed activity, as listed in Appendix 11, are included in the scope of the contribution, it being specified that EDF shall remain holder of the intellectual property rights required for its activity. As of the Completion Date, EDF and C6 shall become co-owners of these applications and specific software.

Software licences pertaining to the contributed activity which EDF benefits from are included in the scope of the contribution, either in their entirety where said licences only concern the contributed activity, or in part where said licences pertain to both the activity in question and EDF's other activities.

EDF and C6 shall come together and conclude, insofar as necessary, agreements setting down the terms and conditions of the assignments, the licences and the maintenance of the software in question, and shall provide a detailed breakdown of licences between EDF and C6.

(iv) *Cash and cash equivalents*

The amount of contributed cash and cash equivalents has been fixed in order to provide C6 with equity of 2,700,000,000 euros, after verification that such cash and such equity is sufficient to enable C6 to operate the contributed activity independently and face up to the requirements associated with the exercise of this activity and the risks associated therewith, and a potential deterioration in its economic environment.

## **SECOND PART: DESCRIPTION AND VALUATION OF THE CONTRIBUTED ELEMENTS**

### **1. CONTRIBUTED ASSETS**

The contribution from EDF to C6 comprises all of the assets attached to its activity as operator of the electricity distribution network in the Metropolitan Continental Territory.

The contribution comprises the following assets appearing in EDF's accounts at 31 December 2006, namely:

#### **1.1 Intangible fixed assets**

The intangible fixed assets comprised in the contribution consist in the following in particular:

- the rights and obligations pertaining to the operation of distribution networks arising under concession agreements provided for by subsections I and III of Article L. 2224-31 of the General Code for Local Authorities;
- contracts, attached to the contributed activity, concluded with users and "customers";
- the rights and obligations pertaining to the distribution of purchasing commitment contracts;
- the trademarks, patterns and designs, and patents listed in Appendix 10-1;
- the domain names pertaining to the contributed activity;
- the software listed in Appendix 11;
- all other non-registered intellectual property rights pertaining to the contributed activity;
- lease entitlements and/or rights of occupation of premises, an indicative list of which appears in Appendices 8 and 9;
- the benefit and the burden of management leases pertaining to the contributed activity;
- the benefit and the burden of the financial leasing contracts pertaining to the contributed activity;
- the benefit and burden of all contracts and agreements pertaining to the contributed activity which have been concluded by EDF, including public electricity distribution concessions;
- the benefit and burden of service agreements named *protocoles* ("outline agreements") concluded pursuant to the aforementioned Law of 10 February 2000, as referred to in Article 14-I-3° paragraph 3° of the SPEGEEG Law and Article 3 of the ninth part of this Agreement;

- all archives, files, ledgers, accounting documents, books, studies and documents pertaining to the contributed activity;
- studies and contracts in progress concerning the contributed activity;
- the network cartography.

Said intangible assets are contributed for a total value of **218,197,555** euros (value at 31 December 2006), breaking down as follows (amounts in euros):

|   | <b>Gross amounts</b> | <b>Depreciation &amp; reserves</b> | <b>Net amounts</b> |
|---|----------------------|------------------------------------|--------------------|
| INTANGIBLES                             | 280,658,225          | 110,148,116                        | 170,510,109        |
| INTANGIBLES IN PROGRESS (I.T. WORK)     | 47,687,446           | -                                  | 47,687,446         |
| <b>TOTAL I: TOTAL INTANGIBLE ASSETS</b> | <b>328,345,671</b>   | <b>110,148,116</b>                 | <b>218,197,555</b> |

## 1.2 Other contributed assets

The contribution includes the following assets in particular:

- real property, as listed in Appendices 4, 5 and 6 (subject to the terms specified in point (i) “Real property” of the First Part “Content of the Contribution” of this Agreement),
- the source substations listed in Appendix 12.

The other contributed assets are contributed for a total value of **41,991,510,036** euros (value at 31 December 2006), breaking down as follows (amounts in euros):

|  | <b>Gross amounts</b> | <b>Depreciation &amp; provisions</b> | <b>Net amounts</b> |
|--|----------------------|--------------------------------------|--------------------|
| TANGIBLE ASSETS IN BUSINESS HELD OUTRIGHT          | 6,913,660,449        | 3,722,217,968                        | 3,191,442,481      |
| - Land   | 88,771,614           | 10,094,607                           | 78,677,007         |
| - Buildings  | 986,177,373          | 426,649,791                          | 559,527,582        |
| - Machinery & equipment                            | 5,173,221,306        | 2,741,892,493                        | 2,431,328,813      |
| - Other tangible assets                            | 665,490,156          | 543,581,077                          | 121,909,079        |
| TANGIBLE ASSETS IN BUSINESS HELD UNDER CONCESSIONS | 54,130,227,109       | 20,820,923,879                       | 33,309,303,230     |
| - Land   | 14,292,507           | 179,423                              | 14,113,084         |
| - Buildings  | 815,497,983          | 613,643,027                          | 201,854,956        |
| - Machinery & equipment                            | 53,277,662,685       | 20,187,831,173                       | 33,089,831,512     |
| - Other tangible assets                            | 22,773,934           | 19,270,256                           | 3,503,678          |

|   |                       |                       |                       |
|---|-----------------------|-----------------------|-----------------------|
| TANGIBLE ASSETS IN PROGRESS   | 569,778,906           | -                     | 569,778,906           |
| - Works in progress   | 569,449,704           | -                     | 569,449,704           |
| - Down-payments to fixed asset suppliers                                | 329,202               | -                     | 329,202               |
| <b>TOTAL II: TOTAL TANGIBLE ASSETS</b>                                  | <b>61,613,666,464</b> | <b>24,543,141,847</b> | <b>37,070,524,617</b> |
| <b>TOTAL III: INVESTMENTS (loans etc.)</b>                              | <b>10,278,128</b>     | <b>354,983</b>        | <b>9,923,145</b>      |
| <b>TOTAL IV: TOTAL FIXED ASSETS (TOTAL OF I + II + III)</b>             | <b>61,623,944,592</b> | <b>24,543,496,830</b> | <b>37,080,447,762</b> |
| INVENTORIES AND GOODS IN PROGRESS                                       | 31,458,752            | -                     | 31,458,752            |
| - Other supplies  | 24,976,529            | -                     | 24,976,529            |
| - Production in progress and other inventories                          | 6,482,223             | -                     | 6,482,223             |
| DOWN-PAYMENTS TO SUPPLIERS  | 21,128                | 7,175                 | 13,953                |
| RECEIVABLES IN OPERATIONS   | 3,404,869,259         | 23,459,975            | 3,381,409,284         |
| - Trade notes and accounts receivable                                   | 2,895,470,208         | 12,531,732            | 2,882,938,476         |
| - Other receivables in operations                                       | 509,399,051           | 10,928,243            | 498,470,808           |
| OTHER CURRENT ASSETS  | 1,498,180,285         | -                     | 1,498,180,285         |
| - Cash  | 1,491,356,845         | -                     | 1,491,356,845         |
| - Prepaid expenses  | 6,823,440             | -                     | 6,823,440             |
| <b>TOTAL V: CURRENT ASSETS</b>  | <b>4,934,529,424</b>  | <b>23,467,150</b>     | <b>4,911,062,274</b>  |
| <b>TOTAL VI: TOTAL OF OTHER CONTRIBUTED ASSETS (TOTAL II + III + V)</b> | <b>66,558,474,016</b> | <b>24,566,963,980</b> | <b>41,991,510,036</b> |

**1.3** The total amount of the contributed assets (Total I + VI) therefore amounts to **42,209,707,591** euros.

## **2. ASSUMPTION OF LIABILITIES OF THE ACTIVITY CONTRIBUTED BY EDF**

The contribution is granted and accepted subject to C6 assuming all of the liabilities pertaining to the contributed activity, namely, according to EDF's balance sheet at 31 December 2006 (amounts in euros):

|   |                       |
|---|-----------------------|
| <b>TOTAL I: SEPARATE ACCOUNTS FOR CONCESSIONS</b>           | <b>24,139,017,644</b> |
| <b>TOTAL II: CONTINGENCY AND LOSS RESERVES</b>              | <b>12,312,422,604</b> |
| - CONTINGENCY RESERVES                                      | 28,438,995            |
| - LOSS PROVISIONS   | 12,283,983,609        |
| - Renewal of fixed assets held in business under concession | 10,501,099,855        |
| - Advantages to personnel                                   | 1,231,668,232         |
| - Other charges   | 551,215,522           |



|  |                       |
|--|-----------------------|
| <b>TOTAL III: LIABILITIES</b>                        | <b>3,058,267,343</b>  |
| - DEBTS  | 324,460,844           |
| - Borrowings   | 270,591,941           |
| - Bank borrowings                                    | 4,106                 |
| - Various debts                                      | 270,587,835           |
| - Advances received on consumption                   | 1                     |
| - Other liabilities                                  | 53,868,902            |
| ADVANCES AND DOWN-PAYMENTS RECEIVED                  | 124,619,036           |
| LIABILITIES IN OPERATIONS, IN INVESTMENT AND VARIOUS | 2,603,780,739         |
| - Trade notes and accounts payable                   | 1,816,592,967         |
| - Tax, social security and other social liabilities  | 664,299,693           |
| - Liabilities on fixed assets and associated items   | 17,427,441            |
| - Other debts  | 105,460,638           |
| PREPAID INCOME                                       | 5,406,724             |
| <b>TOTAL GENERAL (I + II + III)</b>                  | <b>39,509,707,591</b> |

### 3. DETERMINATION OF THE NET CONTRIBUTED ASSETS

From the above descriptions and valuations, it derives that:

- assets are contributed by EDF for a value of: **42,209,707,591** euros
- liabilities are assumed by C6 for a sum of: **39,509,707,591** euros

The net assets contributed by EDF therefore amount to: **2,700,000,000** euros.

### 4. OFF-BALANCE SHEET COMMITMENTS

C6 shall benefit, where applicable, from the commitments received by EDF with respect to the contributed property and rights, and shall substitute itself for EDF, and shall be solely liable for, the commitments made by EDF with respect to the contributed property and rights.

These commitments are described in Appendix 13.

## THIRD PART: OWNERSHIP - POSSESSION AND POSSESSORY RIGHTS

By mutual agreement between the parties, C6 shall become owner and shall enter into possession of the property and rights forming the subject-matter of this contribution on the Completion Date, as defined below in the seventh part.

In accordance with the provisions of Article L. 236-3 of the Commercial Code, C6 hereby accepts in advance to take the contributed elements on the Completion Date, as they exist on that date.

Until the Completion Date, EDF Réseau Distribution, operator of the electricity distribution network within EDF, shall continue to manage all of the contributed property, rights and obligations following the same policies, rules and conditions as in the past.

#### **FOURTH PART: CHARGES AND CONDITIONS**

In accordance with the provisions of Article L. 236-21 of the Commercial Code, EDF's creditors whose debts predate the publication of this draft contribution may bring opposition against the contribution within 30 days following the last publication of this Agreement.

This contribution is made under those charges and conditions arising customarily and by law in such matters, and in particular under the following which C6 hereby undertakes to perform:

1. C6 shall take the property and rights contributed to it with all tangible and non-tangible elements, including moveable assets, real property and equipment, in the condition in which it is to be found on the Completion Date, without being entitled to bring any claim against EDF, its corporate officers, executives and employees, for any reason whatsoever, whether for wear and tear or the bad condition of any equipment, moveable assets or real property, whether for hidden defects, insolvency of debtors, any environmental matters or for any other reason. For information only, EDF and the concerned managers of EDF Réseau Distribution have endeavoured, each to the extent that they are concerned, to identify, in good faith and in the most complete manner possible, all of the events which have occurred from 1 January 2007 until the date of this Agreement which have materially affected the contributed activity. Appendix 14 lists the events which have occurred between 1 January 2007 and the date of this Agreement concerning the off-balance sheet commitments.  
  
C6 shall purely and simply enter by way of substitution into all of the rights and obligations of EDF with respect to the contributed activity.
2. It shall bear and pay, as of the Completion Date, all taxes, contributions, duties, insurance premiums, fees, and all other charges of any nature, whether ordinary or exceptional, which are or will become inherent to the operation and exploitation of the contributed property and rights (and shall proceed with the reimbursement of all taxes, contributions, duties and fees for which the retroactivity of this contribution is of no effect).
3. It shall comply with laws, Decrees, orders, regulations, customs and practice concerning operations of the nature of those comprising the contributed property and rights, and shall take personal responsibility for dealing with any authorisations that may be necessary and which must be obtained as of the Completion Date, all of which at its own risk.
4. It shall perform, for their remaining duration, all leases, concessions or rights of occupancy granted to EDF for the operation and exploitation of the contributed property and rights.
5. It shall take personal responsibility, as of the Completion Date, in EDF's place, and without recourse against EDF for any reason whatsoever, for the performance or completion, at its own expense, of all contracts, agreements and commitments concluded or entered into by EDF with any person with respect to the contributed property and rights; it shall consequently enter by way of substitution and subrogation into all of EDF's rights and rights of action attached to the contributed property and

rights, whether under way or to be exercised, and must fulfil all formalities and enter into, as required, all addenda and all deeds to complement, reiterate, rectify or confirm this contribution in order to ensure the proper transmission of the contributed property and rights.

6. It shall enter by way of subrogation into the benefit of all agreements, authorisations or administrative permissions pertaining to the contributed activity.
7. In accordance with the law, current employment contracts with members of EDF's personnel who are assigned to the operation of the contributed activity shall be continued with the Beneficiary. The transferred personnel are (i) all persons holding jobs with EDF Réseau Distribution and EDF Gaz de France Distribution on the Completion Date, as well as (ii) other persons employed for the contributed activity (an indicative list of whom appears in Appendix 15) (this list shall be updated as soon as possible following the Completion Date in order to take account of transfers of personnel between the date of this Agreement and the Completion Date).

It is specified, insofar as necessary, that employees who are out of effective employment (including due to long-term illness, released for business creation, unpaid leave, time-saving leave, maternity or paternity leave, individual training leave, professional training for job qualification purposes, incarceration, end-of-career leave) which benefit from a right of return and who, on the date of leaving effective employment, were employed within the EDF Gaz de France Distribution common structure, shall benefit from a right to return to the common structure. An indicative list of these employees appears in Appendix 16 (this list shall be updated as soon as possible following the Completion Date in order to take account of transfers of personnel occurring between the date of this Agreement and the Completion Date).

8. The Beneficiary shall not benefit from any rights, other than those forming the subject-matter of this contribution, over the Contributor's trademarks, patents, patterns and designs, and domain names. Later agreements concluded between the parties may, as necessary, provide for the limited use, under conditions to be defined, of the Contributor's trademarks, patents, patterns and designs, and domain names which are not in the contribution.
9. C6 shall have all powers, as of the Completion Date, to act, in the place of EDF with respect to the contributed activity, in bringing or continuing any court action or arbitration procedures, acquiesce to any and all decisions, and receive and pay all sums due as a consequence of such actions, procedures and decisions.

C6 shall enter by way of substitution into all of the rights and obligations of EDF under any proceedings before any courts and tribunals (of civil law, commercial law, labour law, administrative law or in arbitration), pertaining to the contributed activity, other than those which are criminal in nature. An indicative list of these proceedings (other than those which are the subject of reserves in the contribution balance sheet or those concerning employee disputes which are not the subject of reserves in the contribution balance sheet) appears in Appendix 17. An indicative list of employee disputes which are not the subject of reserves in the contribution balance sheet is provided in Appendix 18.

EDF's rights as victim or civil-law plaintiff ("*partie civile*") in any criminal law disputes concerning contributed activity, an indicative list of which appears in Appendix 19, are included in the scope of the contribution.

EDF undertakes to pay over to C6 all sums which may be granted to it, by any courts and tribunals (of civil law, commercial law, criminal law, labour law, administrative law or in arbitration), as civil-law damages arising with respect to the contributed activity, for events predating the Completion Date.

For its part, C6 undertakes to bear, in EDF's place, all sums imposed upon EDF, by any courts and tribunals (of civil law, commercial law, criminal law, labour law, administrative law or in arbitration), as civil-law damages arising with respect to the contributed activity, for events predating the Completion Date.

10. Appendix 20 provides an indicative list of vehicles allocated to the contributed activity. This list shall be updated in order to take account of any changes occurring between the date of this Agreement and the Completion Date.

11. With respect to real property, C6 shall take such property in the condition it is to be found on the Completion Date, without any right of claim or recourse or demand for the repayment of any undue sums against EDF, notably with respect to the condition of real properties forming part of the contributed property and defects of any nature, whether apparent or hidden (including any costs for the decontamination of land and buildings), or with respect to the description and surface areas, and any difference between the stated land area and the real land area shall be for the benefit or loss of C6. C6 shall bear all of servitudes over said properties and shall benefit from all servitudes in their favour, at its own risk and without claim or right of recourse against EDF.

In the event that the book value of the real property (land, structures and buildings) not included in the scope of the contribution has by error been included in the book value of contributed fixed assets, as appearing in point 1.2 of the Second Part entitled "DESCRIPTION AND VALUATION OF THE CONTRIBUTED ELEMENTS", the amount of cash contributed by EDF to C6 under this contribution shall be increased by the corresponding amount.

12. C6 represents and acknowledges that, on the Completion Date, it shall have in its possession all of the technical archives and documents pertaining to the contributed activity, said documents and archives being, at the date of this Agreement, fully in the possession of EDF Réseau Distribution. The other archives, including legal, accounting and fiscal archives, which are connected in whole or in part to said contributed activity but which will not be transferred to C6 pursuant to this Agreement, shall be the subject of a gratuitous right of access by C6 at EDF's premises, insofar as necessary and for as long as this remains necessary, under conditions which ensure that the proper working of the EDF departments concerned shall not be disturbed.

13. With respect to collective rules governing labour relations:

The national status of electricity and gas industry personnel, the deeds adopted in implementing this status (extended PERS circulars) and branch-specific agreements shall, as of the Completion Date, be applicable to all of C6's personnel. The status and the deeds adopted for its implementation may be consulted on the website <http://www.sgeieg.asso.fr>.

The application of company-level collective bargaining agreements will be subject to challenge due to the business transfer to C6, in accordance with Article L. 132-8 of the Employment Code. They will continue to be effective until either (i) the entry into force of new collective bargaining agreements intended to replace them, or (ii) the

expiry of a period of 15 months as of the Completion Date if such new agreements are not concluded within this period. The indicative list of the main collective bargaining agreements in question appears in Appendix 21.

Unilateral commitments (non-extended PERS circulars, practices, N and DP memoranda) shall be transferred to C6 as a consequence of this Agreement. Most of these unilateral commitments can be consulted by C6 on EDF's human resources intranet, insofar as necessary and for as long as this is necessary, under conditions which ensure that the proper working of the EDF department concerned shall not be disturbed.

## **FIFTH PART: REMUNERATION FOR THE CONTRIBUTION – CAPITAL INCREASE**

### **1. REMUNERATION FOR THE CONTRIBUTION**

As remuneration and to represent the net assets contributed by EDF, EDF shall be allotted 540,000,000 new shares of a par value of 0.50 euros each, entirely paid up, to be created by C6 by way of a capital increase.

This remuneration has been determined on the basis of the net book value of the contributed elements as set forth in point 2. of the part on "Valuation Methods".

It is specified that (i) the new shares allotted to EDF as remuneration for the contribution will represent more than 99% of the share capital of C6 following the contribution, and (ii) EDF will hold more than 99.99% of the shares in C6 following the contribution; all shares in C6 including those remunerating the contribution will be of the same class.

### **2. CAPITAL INCREASE FOR C6**

As set out in point 1. above, C6 shall create 540,000,000 new shares with a par value of 0.50 euros each, as remuneration for the contribution.

The capital of C6 shall therefore be increased by: 270,000,000 euros

and shall therefore be increased from: 37,000 euros

to: 270,037,000 euros

It shall as a consequence be divided into 540,074,000 shares, entirely paid up, of a par value of 0.50 euro each all of the same class.

The new shares created as remuneration for this contribution shall have the same entitlement to dividends as existing shares in C6 and shall be entirely assimilated to said shares as of the time of their issue, shall benefit from the same rights and bear the same charges, including all withholding taxes, in such a manner that all shares of the same nature shall, without distinction, provide entitlement to the same net sum on any distribution or any redemption or repayment made over the duration of the company or at the time of its liquidation.

They shall be negotiable as of the final completion of C6's capital increase to remunerate the contribution forming the subject-matter of this Agreement.

### **3. PLANNED AMOUNT OF THE CONTRIBUTION ISSUE PREMIUM**

The amount of net assets contributed by EDF being: 2,700,000,000 euros

and the amount of C6's capital increase being: 270,000,000 euros

the difference represents a sum of: 2,430,000,000 euros

This amount shall be allocated as follows:

(i) a sum of 706,263,295 euros shall be allocated to the reincorporation, in C6's shareholders' equity, of reserves, received investment subsidies and regulated reserves which are related to the contributed assets, for the amounts set out below:

- for the special reserve - Law of 28 December 1959 7,339,219 euros
- for the regulated reserve - Law of 29 December 1976 8,152,225 euros
- as received investment subsidies 39,015,302 euros
- as reserves for depreciable fixed assets - Law of 30 December 1977 3,755,831 euros
- as derogating depreciation and amortisation 648,000,718 euros

(ii) a sum of 27,003,700 euros, for the statutory reserve;

(iii) the remainder, i.e. 1,696,733,005 euros, as contribution issue premium.

The amounts set out above shall be recorded on C6's balance sheet. The contribution issue premium may be allocated in any manner in accordance with applicable policies, as decided upon by C6's General Meeting of shareholders.

## **SIXTH PART: REPRESENTATIONS AND WARRANTIES**

1. EDF represents that it is the owner of the contributed activity as a consequence of having created it.
2. Considering that the activity of operator of the electricity distribution network has been provided since 1 July 2004 by EDF Réseau Distribution, and by EDF Gaz de France Distribution, in an independent and confidential manner with respect to EDF in accordance with the provisions of Article 20 of the aforementioned Law of 10 February 2000, EDF hereby grants no other warranty to C6, which hereby represents that it is perfectly informed as to the state of the contributed property and rights.

For all necessary purposes, it is specified that neither EDF nor the concerned managers of the EDF Réseau Distribution structure, each insofar as they are concerned, have been able to identify, after carrying out research in good faith and in the most complete manner

possible, any charge, warranty, mortgage or other security interest, pledge, or registered seller's lien as might encumber the transferred property and rights, other than those expressly referred to herein.

## **SEVENTH PART: EFFECTIVE DATE – COMPLETION DATE - CONDITIONS PRECEDENT**

It is recalled that this contribution shall have retroactive effect as of 0:00 hours on 1 January 2007, in accordance with the possibility offered by Article L. 236-4 of the Commercial Code.

The contribution granted by EDF to C6, and the capital increase for C6 arising as a result shall be finally completed at 24:00 hours on 31 December 2007 (the "**Completion Date**"), subject to the fulfilment, at the latest on that date, of each of the following conditions precedent:

- Approval of this Agreement, and of the contribution to C6 made under this Agreement, by the Extraordinary General Meeting of EDF.
- Approval of this Agreement, of the contribution from EDF under this Agreement and of the capital increase arising as a consequence, by the Extraordinary General Meeting of C6.

## **EIGHTH PART: TAX LAW FRAMEWORK**

As a preliminary matter, it is specified that Article 14 II. of the SPEGEEG Law provides that *"the transfers referred to in subsection I of this Article shall not give rise to the collection of duty or taxes of any nature whatsoever, including conveyancing publication formalities tax and mortgage registrar's fees. (...) The provisions of the first paragraph of this subsection II shall not apply with respect to corporation tax"*.

### **Stamp duty**

This contribution shall be registered gratuitously in accordance with Article 14 II. of the SPEGEEG Law.

### **Direct taxes**

EDF and C6 each hereby represent, as far as each is concerned, that:

- EDF and C6 are companies having their registered offices in France, subject to the tax status of companies constituted with a share capital and, as such, subject to corporation tax;
- The contributed activity shall be remunerated by the allotment to EDF of rights representing the capital of C6, within the meaning of Article 301 F of Appendix II to the General Tax Code;
- As this contribution comprises all of the elements making up a complete branch of activity within the meaning of Article 210 B of the General Tax Code, EDF and C6 intend to have this transaction of contribution of assets enter within the favourable tax law framework for mergers, as laid down in Article 210 A of the General Tax Code as directed by Article 210 B of the same code.

Consequently, the options and commitments pertaining to this Agreement are as follows:

As deriving from the above provisions, the contribution shall be retroactively effective as of 1 January 2007. Consequently, the profits or losses made as of that date by the operation of the contributed branch of activity shall be included in the taxable profits of C6 for the financial year beginning on 1 January 2007.

In order to ensure that the contribution has the benefit of Articles 210 A and 210 B of the General Tax Code, EDF hereby makes the commitment:

- to keep the C6 shares received in return for the contribution for a period of three years;
- to calculate the capital gains made on the later sale of C6 shares issued as remuneration for the contribution by reference to the value that the contributed property had, from a tax standpoint, in its own accounts.

For its part, C6 undertakes to comply with all of the provisions and requirements of Articles 210 A and 210 B of the General Tax Code applicable to this situation, and in particular:

- (i) shall take up, among its balance sheet equity and liability items, those provisions which pertain to the contributed activity and for which taxation has been deferred and which will not become purposeless as a consequence of the contribution;
- (ii) to substitute itself for EDF for the add-back of profits for which taxation has been deferred by EDF with respect to the property included in the contribution;
- (iii) to calculate the capital gains later made on the sale of non-depreciable fixed assets (and portfolio securities which are assimilated to them pursuant to Article 210 A 6 of the General Tax Code) which have been contributed to it in accordance with the value that those elements had from a tax standpoint in EDF's accounts;
- (iv) to add back to its profits taxable under corporation tax, under those conditions and deadlines laid down in point d of Article 210 A 3 of the General Tax Code, any capital gains made on the contribution of depreciable assets contributed to it, without omitting to attach, to the profit or loss of the financial year in which said sale takes place, that fraction which has not been added back of the capital gains pertaining to property sold before the end of the add-back period;
- (v) to record on its balance sheet those elements other than fixed assets (or property which is assimilated to fixed assets pursuant to Article 210 A 6 of the General Tax Code) which are included in the contribution, for the value that said elements had, from a tax standpoint, in EDF accounts or, that failing, to attach to the profit or loss of the financial year in which the contribution is made, the profit corresponding to the difference between the new value of these elements and the value that they had from a tax standpoint in EDF's accounts;
- (vi) to reconstitute, among its balance sheet equity and liability items, the regulated reserve corresponding to derogating depreciation pertaining to the contributed assets, as said reserve existed in EDF's accounts, by deducting the same from the contribution issue premium.

Furthermore, EDF and C6 hereby undertake to include in their tax returns, for as long as necessary, a follow-up statement describing those capital gains for which taxation has been suspended in accordance with the model form provided by the authorities, setting out, for each nature of element included in the contribution, the information required to calculate the taxable



profit from later sale of the elements in question, in accordance with Article 54 *septies* I of the General Tax Code and Article 38 *quindecies* of Appendix III of said code.

C6 shall record in the ledger provided for in Article 54 *septies* II of the General Tax Code, for as long as necessary, the capital gains made on non-depreciable assets included in the contribution and for which taxation has been deferred.

Moreover, insofar as necessary, C6 undertakes to proceed itself, for the fraction of said sums which are still to be deferred on the effective date of the contribution, with the add-back of equipment subsidies which EDF obtained to finance the fixed assets included in the contribution. C6 undertakes to spread this add-back over those periods prescribed by Article 42 *septies* of the General Tax Code.

C6 hereby represents that it shall assume the benefit and/or the burden of all commitments of a fiscal nature which pertain to the contributed activity, as they have been previously made by EDF at the time of any merger, division, spin-off, contribution of assets or any other assimilated transaction which is subject to the favourable tax law framework for mergers as arising under the Law of 12 July 1965, with respect to corporation tax or subject to any other deferral or suspension of taxation.

#### **Value added tax**

Pursuant to Article 257 *bis* of the General Tax Code, the contribution, which concerns a complete branch of activity causing the transmission of a partial universal of property, is not subject to VAT.

Consequently, the contribution of real property under construction or buildings which have been completed for less than five years shall not be taken into account for the application of Article 257-7 of the General Tax Code.

C6 is deemed to continue the person of EDF, including notably for adjustments of the VAT deducted by the latter.

The total amount of the contribution excluding VAT shall be mentioned on the declarations of sales and turnover filed by EDF and C6.

#### **Employer's contribution to the construction effort**

The Beneficiary shall enter by way of subrogation into all of the rights and obligations of the Contributor for the application of provisions concerning investments to be made as employers' participation to the construction effort, including notably those of Articles 161 et seq. of Appendix II of the General Tax Code. It shall bear the burden for the obligation to invest as owed by the Contributor for salaries paid by it prior to the final completion of the contribution of assets and shall benefit, as applicable, from any surplus sums carried forward with respect to investments made by the Contributor.

In accordance with the provisions of Article 163 of Appendix II to the General Tax Code, the Contributor shall present the declaration provided for in Article 161 of the same Appendix to the Tax Authorities within the sixty-day period set forth by said Article.

It shall append this commitment by the Beneficiary to its declaration, presented in duplicate in accordance with the aforementioned Article 161.

#### **Ancillary taxes**

With respect to ancillary taxes, the Beneficiary shall enter by way of subrogation into all of the rights and obligations of the Contributor, particularly for the statutory provisions concerning:

- the employer's participation to continuing professional training,
- the apprenticeship tax.

#### **Assumption of the Contributor's commitments**

The Beneficiary shall take up, insofar as necessary, any commitment made by the Contributor on the acquisition of land for construction, in accordance with Articles 257-7-1.-a and 1594-0 G-A of the General Tax Code.

### **NINTH PART: MISCELLANEOUS PROVISIONS**

#### **1. FORMALITIES**

- (a) Unless provided otherwise in this Agreement, C6 shall carry out all formalities required with respect to the contribution made by EDF, within the given deadlines.
- (b) It shall take personal responsibility for dealing with all necessary declarations and formalities before all competent administrative authorities, in order to cause the contributed property to appear under its name.
- (c) It shall, generally, carry out all formalities required in order to make the transmission of property and rights which have been contributed to it, binding against third parties.
- (d) Article 14 II. of the SPEGEEG Law provides that "*conveyancing publication formalities for transfers undertaken pursuant to this Article may be deferred to the first later transfer or sale of the property in question*".

#### **2. COMMON STRUCTURE**

On 18 April 2005, EDF and Gaz de France concluded an agreement aiming to define their relations with respect to EDF Gaz de France Distribution, its powers and the sharing of costs arising from its activity.

Article 5 of Law No. 46-628 of 8 April 1946 as amended by Law No. 2006-1537 of 7 December 2006 concerning the energy sector provides in particular that "*the creation of a common structure without legal personality, between the companies arising from the legal unbundling imposed on Electricité de France and Gaz de France by Article 13 of the aforementioned Law No. 2004-803 of 9 August 2004, is compulsory in the distribution sector, for the construction of structures and facilities, project managership for works, the operation and maintenance of the networks, metering operations and other tasks pertaining to these activities.*"

Under these conditions, the rights and obligations of EDF under the aforementioned agreement of 18 April 2005 shall be transferred to C6 as of the Completion Date.

### 3. PROTOCOLES

Article 14 I. as amended of the SPEGEEG Law provides that “(...) *the protocols concluded pursuant to the aforementioned Law No. 2000-108 of 10 February 2000 and the aforementioned Law No. 2003-8 of 3 January 2003 between the structures which operate the public electricity distribution network and the public natural gas distribution network and the other departments of Electricité de France and Gaz de France shall become contractually binding between each of these two companies and the companies that they create pursuant to Article 13 of this Law in order to carry out their activities of operating the distribution networks for electricity or natural gas. The same shall apply to the protocols concluded between the common structure created pursuant to Article 5 of the aforementioned Law No. 46-628 of 8 April 1946 and the other departments of Electricité de France and Gaz de France*”.

It derives from these provisions that the protocols concluded pursuant to the above provisions, on the one hand between EDF Réseau Distribution and EDF, and on the other hand between EDF Gaz de France Distribution and EDF, an indicative list of which appears in Appendix 22, shall become contractually binding between EDF and C6 as of the Completion Date.

### 4. COOPERATION BETWEEN THE PARTIES

As recalled in the recitals to this Agreement, Article 14 of the SPEGEEG Law provides that the contribution forming the subject-matter of this Agreement covers all of the specific property, authorisations, rights and obligations held by EDF as operator of the electricity distribution network in the Metropolitan Continental Territory.

EDF and EDF Réseau Distribution, operator of the electricity distribution network, have therefore endeavoured, each insofar as they are concerned and jointly, to identify in this Agreement and its Appendices, in good faith, those assets and liabilities transferred to C6 and, in the preparation of this Agreement and also having regard to the elements mentioned herein, to assess the scope of the obligations pertaining thereto which the SPEGEEG Law organises to be transferred to C6.

Considering however the breadth of scope of the activity of operator of the electricity distribution network transferred to C6, its history, and the special conditions under which EDF Réseau Distribution has independently managed the activity in question pursuant to the SPEGEEG Law, the parties cannot, despite their best efforts deployed for this aim, ensure that the Agreement and its Appendices exhaustively describe the contribution which is organised herein and the transfers arising as a consequence.

In particular, unless provided otherwise, the Appendices appearing in this Agreement are not necessarily exhaustive and reflect the situation of the elements in question on the date of signature of the Agreement and not on the Completion Date.

The parties therefore undertake to confer in good faith whenever necessary in order to determine whether any elements not described or not sufficiently described in this Agreement are included in the scope of the contribution, are part of the above-defined distribution network or are preponderantly attached to the activity of operator of the electricity distribution network in the Metropolitan Continental Territory, particularly with respect to the real property referred to in point (i) “Real property” of the First Part “Content of the contribution” of this Agreement, and to organise, contractually, the terms for the sharing and/or use of these elements after the Completion Date.

Moreover, in the event that after the Completion Date, C6 is confronted with a harmful situation (i) the origin of which predates the Completion Date, (ii) which EDF Réseau Distribution could not have been aware of in the context of the independent management of the structure, and (iii) is liable to significantly affect C6's activity as operator of the electricity distribution network in the Metropolitan Continental Territory or its financial situation, the parties undertake to come together and cooperate in good faith in order to determine the means and actions which might reduce or offset, to the greatest possible extent, the harmful effects of such a situation, in the interest of both parties.

Insofar as necessary, it is specified that this Article shall not be construed as imposing any pecuniary obligation on EDF, including any obligation to indemnify C6 and/or its shareholders due to the occurrence of such circumstances.

Moreover, in order to facilitate the registration formalities referred to in point 1. of this ninth part, C6 may draw up any and all complementary, reiterative, corrective or confirmatory deeds which EDF shall sign in as many originals as required, provided that they conform to this Agreement.

## **5. PROCEEDINGS BROUGHT BY THIRD PARTIES**

C6 undertakes to inform EDF or any corporate officer, senior executive or employee of EDF of any investigation, action or claim brought by a third party (including any competent administrative authority) and under which their liability may be sought, and to associate said persons, if they so request and at their own expense, in the follow-up of the proceedings in question in such a manner that they may, in good time, assert their rights, arguments, position or information as they deem fitting for the defence of their interests.

## **6. AFFIRMATION OF SINCERITY**

The parties hereby expressly affirm, subject to the penalties laid down by Article 1837 of the General Tax Code, that this deed expresses the entire value of the contributed property.

## **7. COSTS**

All costs, duties and fees which are payable as a consequence of the contribution, and those which may be a direct or indirect consequence hereof, shall be borne by the Beneficiary, and its representative hereby commits it to pay the same.

## **8. ELECTION OF DOMICILE**

For the performance of this Agreement, and for all service and notifications, the representatives of EDF and C6, in their official capacity, hereby elect domicile in their respective registered office.

**9. POWERS**

All powers are hereby granted to the bearer of an original or a copy of this deed in order to proceed with all formalities and make all declarations, serve all notice, proceed with all filings and publication and otherwise.

Executed in Paris,

In nine original copies

25 June 2007 (then amended by addendum on 7 November 2007)

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EDF

Represented by Mrs Anne Le Lorier

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C6

Represented by Mr Michel Francony

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