

Philippine Bidding Documents Republic of the Philippines



Procurement of Operation and Maintenance Service Contract for the Malaya Thermal Power Plant located at Pililla, Rizal

Project Reference No.

2018-PB-OMSC-MTPP-007-02

8 August 2018



TABLE OF CONTENTS

SECTION I. INVITATION TO BID.....	3
SECTION II. INSTRUCTIONS TO BIDDERS.....	6
SECTION III. BID DATA SHEET.....	40
SECTION IV. GENERAL CONDITIONS OF CONTRACT.....	50
SECTION V. SPECIAL CONDITIONS OF CONTRACT.....	68
SECTION VI. SCHEDULE OF REQUIREMENTS.....	70
SECTION VII. TECHNICAL SPECIFICATIONS.....	115
SECTION VIII. BIDDING FORMS.....	159

Section I. Invitation to Bid

INVITATION TO BID

for the Second (2nd) Round of Procurement of Operation and Maintenance Service Contract for the Malaya Thermal Power Plant

1. The Power Sector Assets and Liabilities Management (PSALM) Corporation, through the 2018 Corporate Operating Budget (for the portion of the Contract to be performed in 2018) and to be included in 2019 Corporate Operating Budget (for the portion of the Contract to be performed in 2019), intends to apply the sum of **TWO HUNDRED THIRTEEN MILLION PESOS (PHP213,000,000.00)** being the Approved Budget for the Contract (ABC) for the Second (2nd) Round of Procurement of the Operation and Maintenance Service Contract (“OMSC”) for the Malaya Thermal Power Plant (Project Reference No. 2018-PB-OMSC-MTPP-007-02). Bids received in excess of the ABC shall be automatically rejected at bid opening.
2. PSALM now invites bids for the Second (2nd) Round of Procurement of the Operation and Maintenance Service Contract for the Malaya Thermal Power Plant. Delivery of the Goods and Services is required for one (1) year upon the effectivity of the Contract. Bidders should have completed, within five (5) years from the date of submission and receipt of bids, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II. Instruction to Bidders.

The Bidder must have completed a single contract that is similar to this Project, and the value of which, adjusted, if necessary, by the Bidder to current prices using the Philippine Statistics Authority (PSA) consumer price index, must be at least fifty percent (50%) of the ABC.

A contract similar to the Project involves services of similar nature and complexity as to the operation and maintenance of a Thermal Power Plant (i.e., Coal-fired utility, Oil & Gas-fired plants Bio-fuel plants, etc.) with generation output delivered to a national grid.

3. Bidding will be conducted through open competitive bidding procedures using a non-discretionary “pass/fail” criterion as specified in the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184, otherwise known as the “Government Procurement Reform Act”.

Bidding is open to all interested bidders, whether local or foreign subject to the conditions for eligibility provided in the IRR of RA 9184.

4. Interested bidders may obtain further information from PSALM and inspect the Bidding Documents at the address given below, from 9:00AM to 4:00PM, Monday to Friday.
5. A complete set of Bidding Documents may be acquired by interested Bidders **08 to 30 August 2018** (Deadline for Submission of Bids), from the address below and upon payment of the applicable fee for the Bidding Documents, pursuant to the latest guidelines issued by the GPPB, in the amount of Fifty Thousand Pesos (PhP50,000.00).

It may also be downloaded free of charge from the websites of the Philippine Government Electronic Procurement System (PhilGEPS) (<https://www.philgeps.gov.ph>) and PSALM (<https://www.psalm.gov.ph>), provided that Bidders shall pay the applicable fee for the Bidding Documents not later than the submission of their bids.

6. PSALM will hold a Pre-Bid Conference on **15 August 2018, 10:00AM**, at G/F National Transmission Corporation (TransCo) Bldg., Power Center, Quezon Ave. cor. BIR Road, Diliman, Quezon City, which shall be open to prospective bidders.
7. Bids must be duly received by the BAC Secretariat at the address below on or before **30 August 2018, 10:00AM**. All Bids must be accompanied by a bid security in any of the acceptable forms and in the amount stated in ITB Clause 18.

Bid opening shall be on **30 August 2018, 10:15AM**, at G/F National Transmission Corporation (TransCo) Bldg., Power Center, Quezon Ave. cor. BIR Road, Diliman, Quezon City. Bids will be opened in the presence of the bidders' representatives who choose to attend at the address below. Late bids shall not be accepted.

8. PSALM reserves the right to accept any and all bids, declare a failure of bidding, or not award the contract at any time prior to contract award in accordance with Section 41 of RA 9184 and its IRR, without thereby incurring any liability to the affected bidder or bidders.
9. For further information, please refer to:

THE SECRETARIAT

Bids and Awards Committee
Power Sector Assets and Liabilities Management Corporation
3/F National Transmission Corporation Bldg.
Power Center, Quezon Avenue cor. BIR Road
Diliman, Quezon City 1101
Tel. No.: (02) 902-9094
E-mail address: 50MBAC2018@psalm.gov.ph
BACSec2018@psalm.gov.ph

CHAIRPERSON
Bids and Awards Committee

Section II. Instructions to Bidders

TABLE OF CONTENTS

A. GENERAL	9
1. Scope of Bid.....	9
2. Source of Funds.....	9
3. Corrupt, Fraudulent, Collusive, and Coercive Practices	9
4. Conflict of Interest.....	11
5. Eligible Bidders	12
6. Bidder’s Responsibilities	13
7. Origin of Goods	16
8. Subcontracts.....	16
B. CONTENTS OF BIDDING DOCUMENTS.....	17
9. Pre-Bid Conference	17
10. Clarification and Amendment of Bidding Documents	17
C. PREPARATION OF BIDS	18
11. Language of Bids.....	18
12. Documents Comprising the Bid: Eligibility and Technical Components	18
13. Documents Comprising the Bid: Financial Component	20
14. Alternative Bids	21
15. Bid Prices	21
16. Bid Currencies	23
17. Bid Validity	24
18. Bid Security.....	24
19. Format and Signing of Bids	27
20. Sealing and Marking of Bids	27
D. SUBMISSION AND OPENING OF BIDS	28
21. Deadline for Submission of Bids.....	28
22. Late Bids.....	28
23. Modification and Withdrawal of Bids.....	28
24. Opening and Preliminary Examination of Bids	29
E. EVALUATION AND COMPARISON OF BIDS.....	31
25. Process to be Confidential.....	31
26. Clarification of Bids	31
27. Domestic Preference.....	31

28.	Detailed Evaluation and Comparison of Bids.....	32
29.	Post-Qualification.....	33
30.	Reservation Clause.....	35
F.	AWARD OF CONTRACT	36
31.	Contract Award.....	36
32.	Signing of the Contract.....	36
33.	Performance Security	37
34.	Notice to Proceed.....	38
35.	Protest Mechanism	39

A. General

1. Scope of Bid

- 1.1. The Procuring Entity named in the BDS invites bids for the supply and delivery of the Goods as described in Section VII. Technical Specifications.
- 1.2. The name, identification, and number of lots specific to this bidding are provided in the BDS. The contracting strategy and basis of evaluation of lots is described in ITB Clause 28.

2. Source of Funds

The Procuring Entity has a budget or has received funds from the Funding Source named in the BDS, and in the amount indicated in the BDS. It intends to apply part of the funds received for the Project, as defined in the BDS, to cover eligible payments under the contract.

3. Corrupt, Fraudulent, Collusive, and Coercive Practices

- 3.1. Unless otherwise specified in the BDS, the Procuring Entity as well as the bidders and suppliers shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Procuring Entity:
 - (a) defines, for purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in RA 3019.
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels

and to deprive the Procuring Entity of the benefits of free and open competition.

- (iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.
 - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
 - (v) "obstructive practice" is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or
 - (bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.
- 3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in ITB Clause 3.1(a).
- 3.3. Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a bidder or supplier in the bidding for and performance of a contract themselves or through independent auditors as reflected in the GCC Clause 3.

4. Conflict of Interest

4.1. All Bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) below and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (g) below:

- (a) A Bidder has controlling shareholders in common with another Bidder;
- (b) A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
- (c) A Bidder has the same legal representative as that of another Bidder for purposes of this bid;
- (d) A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder or influence the decisions of the Procuring Entity regarding this bidding process;
- (e) A Bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid;
- (f) A Bidder who participated as a consultant in the preparation of the design or technical specifications of the Goods and related services that are the subject of the bid; or
- (g) A Bidder who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project.

4.2. In accordance with Section 47 of the IRR of RA 9184, all Bidding Documents shall be accompanied by a sworn affidavit of the Bidder that it is not related to the Head of the Procuring Entity (HoPE), members of the Bids and Awards Committee (BAC), members of the Technical Working Group (TWG), members of the BAC Secretariat, the head of the Project Management Office (PMO) or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. On the part of the Bidder, this Clause shall apply to the following persons:

- (a) If the Bidder is an individual or a sole proprietorship, to the Bidder himself;

- (b) If the Bidder is a partnership, to all its officers and members;
- (c) If the Bidder is a corporation, to all its officers, directors, and controlling stockholders;
- (d) If the Bidder is a cooperative, to all its officers, directors, and controlling shareholders or members; and
- (e) If the Bidder is a joint venture (JV), the provisions of items (a), (b), (c), or (d) of this Clause shall correspondingly apply to each of the members of the said JV, as may be appropriate.

Relationship of the nature described above or failure to comply with this Clause will result in the automatic disqualification of a Bidder.

5. Eligible Bidders

5.1. Unless otherwise provided in the **BDS**, the following persons shall be eligible to participate in this bidding:

- (a) Duly licensed Filipino citizens/sole proprietorships;
- (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
- (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
- (d) Cooperatives duly organized under the laws of the Philippines; and
- (e) Persons/entities forming themselves into a Joint Venture (JV), *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that Filipino ownership or interest of the JV concerned shall be at least sixty percent (60%).

5.2. Foreign bidders may be eligible to participate when any of the following circumstances exist, as specified in the **BDS**:

- (a) When a Treaty or International or Executive Agreement as provided in Section 4 of RA 9184 and its IRR allow foreign bidders to participate;
- (b) Citizens, corporations, or associations of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;

- (c) When the Goods sought to be procured are not available from local suppliers; or
 - (d) When there is a need to prevent situations that defeat competition or restrain trade.
- 5.3. Government owned or -controlled corporations (GOCCs) may be eligible to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity.
- 5.4. Unless otherwise provided in the BDS, the Bidder must have completed a Single Largest Completed Contract (SLCC) similar to the Project and the value of which, adjusted, if necessary, by the Bidder to current prices using the Philippine Statistics Authority (PSA) consumer price index, must be at least equivalent to a percentage of the ABC stated in the BDS.

For this purpose, contracts similar to the Project shall be those described in the BDS, and completed within the relevant period stated in the Invitation to Bid and ITB Clause 12.1(a)(ii).

- 5.5. The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC), which must be at least equal to the ABC to be bid, calculated as follows:

NFCC = [(Current assets minus current liabilities) (15)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be bid.

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR.

For purposes of computing the foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their audited financial statements prepared in accordance with international financial reporting standards.

If the prospective bidder opts to submit a committed Line of Credit, it must be at least equal to ten percent (10%) of the ABC to be bid. If issued by a foreign universal or commercial bank, it shall be confirmed or authenticated by a local universal or commercial bank.

6. Bidder's Responsibilities

- 6.1. The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VIII. Bidding Forms as required in ITB Clause 12.1(b)(iii).

- 6.2. The Bidder is responsible for the following:
- (a) Having taken steps to carefully examine all of the Bidding Documents;
 - (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
 - (c) Having made an estimate of the facilities available and needed for the contract to be bid, if any;
 - (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin(s) as provided under ITB Clause 10.4.
 - (e) Ensuring that it is not “blacklisted” or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
 - (f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
 - (g) Authorizing the HoPE or its duly authorized representative/s to verify all the documents submitted;
 - (h) Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary’s Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture;
 - (i) Complying with the disclosure provision under Section 47 of RA 9184 and its IRR in relation to other provisions of RA 3019;
 - (j) Complying with existing labor laws and standards, in the case of procurement of services; Moreover, bidder undertakes to:
 - (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.

In case there is a finding by the Procuring Entity or the DOLE of underpayment or non-payment of workers' wage and wage-related benefits, bidder agrees that the performance security or portion of the contract amount shall be withheld in favor of the complaining workers pursuant to appropriate provisions of Republic Act No. 9184 without prejudice to the institution of appropriate actions under the Labor Code, as amended, and other social legislations.

- (ii) Comply with occupational safety and health standards and to correct deficiencies, if any.

In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and

- (iii) Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment's premises; and

- (k) Ensuring that it did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

Failure to observe any of the above responsibilities shall be at the risk of the Bidder concerned.

- 6.3. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents.
- 6.4. It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of this Project; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this Project.
- 6.5. The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the procuring entity. However, the Procuring Entity shall ensure that all information in the Bidding

Documents, including bid/supplemental bid bulletin/s issued, are correct and consistent.

- 6.6. Before submitting their bids, the Bidder is deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect this Project in any way.
- 6.7. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.8. The Bidder should note that the Procuring Entity will accept bids only from those that have paid the applicable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

7. Origin of Goods

Unless otherwise indicated in the **BDS**, there is no restriction on the origin of goods other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, subject to ITB Clause 27.1.

8. Subcontracts

- 8.1. Unless otherwise specified in the **BDS**, the Bidder may subcontract portions of the Goods to an extent as may be approved by the Procuring Entity and stated in the **BDS**. However, subcontracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.
- 8.2. Subcontractors must submit the documentary requirements under ITB Clause 12 and comply with the eligibility criteria specified in the **BDS**. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.
- 8.3. The Bidder may identify the subcontractor to whom a portion of the Goods will be subcontracted at any stage of the bidding process or during contract implementation. If the Bidder opts to disclose the name of the subcontractor during bid submission, the Bidder shall include the required documents as part of the technical component of its bid.

B. Contents of Bidding Documents

9. Pre-Bid Conference

- 9.1. (a) If so specified in the BDS, a pre-bid conference shall be held at the venue and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Project.
- (b) The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids, but not earlier than seven (7) calendar days from the posting of the invitation to bid/bidding documents in the PhilGEPS website. If the Procuring Entity determines that, by reason of the method, nature, or complexity of the contract to be bid, or when international participation will be more advantageous to the GOP, a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids, as specified in the BDS.
- 9.2. Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents as recorded in the minutes of the pre-bid conference and the Supplemental/Bid Bulletin. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes shall be made available to prospective bidders not later than five (5) days upon written request.
- 9.3 Decisions of the BAC amending any provision of the bidding documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.

10. Clarification and Amendment of Bidding Documents

- 10.1. Prospective bidders may request for clarification on and/or interpretation of any part of the Bidding Documents. Such request must be in writing and submitted to the Procuring Entity at the address indicated in the BDS at least ten (10) calendar days before the deadline set for the submission and receipt of Bids.
- 10.2. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin, to be made available to all those who have properly secured the Bidding Documents, at least seven (7) calendar days before the deadline for the submission and receipt of Bids.

- 10.3. Supplemental/Bid Bulletins may also be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. Any modification to the Bidding Documents shall be identified as an amendment.
- 10.4. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS and the website of the Procuring Entity concerned, if available, and at any conspicuous place in the premises of the Procuring Entity concerned. It shall be the responsibility of all Bidders who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with ITB Clause 23.

C. Preparation of Bids

11. Language of Bids

The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.

12. Documents Comprising the Bid: Eligibility and Technical Components

12.1. Unless otherwise indicated in the BDS, the first envelope shall contain the following eligibility and technical documents:

(a) Eligibility Documents -

Class "A" Documents:

- (i) PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of the IRR. For procurement to be performed overseas, it shall be subject to the Guidelines to be issued by the GPPB.

- (ii) Statement of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid; and

Statement of the Bidder's SLCC similar to the contract to be bid, in accordance with **ITB Clause 5.4**, within the relevant period as provided in the **BDS**.

The two statements required shall indicate for each contract the following:

- (ii.1) name of the contract;
 - (ii.2) date of the contract;
 - (ii.3) contract duration;
 - (ii.4) owner's name and address;
 - (ii.5) kinds of Goods;
 - (ii.6) For Statement of Ongoing Contracts - amount of contract and value of outstanding contracts;
 - (ii.7) For Statement of SLCC - amount of completed contracts, adjusted by the Bidder to current prices using PSA's consumer price index, if necessary for the purpose of meeting the SLCC requirement;
 - (ii.8) date of delivery; and
 - (ii.9) end user's acceptance or official receipt(s) or sales invoice issued for the contract, if completed, which shall be attached to the statements.
- (iii) NFCC computation in accordance with **ITB Clause 5.5** or a committed Line of Credit from a universal or commercial bank.

Class "B" Document:

- (iv) If applicable, the Joint Venture Agreement (JVA) in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners in accordance with Section 23.1(b) of the IRR.
- (b) Technical Documents -

- (i) Bid security in accordance with **ITB Clause 18**. If the Bidder opts to submit the bid security in the form of:
 - (i.1) a bank draft/guarantee or an irrevocable letter of credit issued by a foreign bank, it shall be accompanied by a confirmation from a Universal or Commercial Bank; or
 - (i.2) a surety bond, it shall be accompanied by a certification by the Insurance Commission that the surety or insurance company is authorized to issue such instruments;
- (ii) Conformity with technical specifications, as enumerated and specified in **Sections VI and VII** of the Bidding Documents; and
- (iii) Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in **Section VIII. Bidding Forms**.
- (iv) For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.

13. Documents Comprising the Bid: Financial Component

13.1. The financial component of the bid shall contain the following:

- (a) Financial Bid Form, which includes bid prices and the applicable Price Schedules, in accordance with **ITB Clauses 15.1 and 15.4**;
- (b) If the Bidder claims preference as a Domestic Bidder, a certification from the DTI issued in accordance with **ITB Clause 27**, unless otherwise provided in the **BDS**; and
- (c) Any other document related to the financial component of the bid as stated in the **BDS**.

13.2. (a) Unless otherwise stated in the **BDS**, all bids that exceed the ABC shall not be accepted.

- (b) Unless otherwise indicated in the **BDS**, for foreign-funded procurement, a ceiling may be applied to bid prices provided the following conditions are met:

- (i) Bidding Documents are obtainable free of charge on a freely accessible website. If payment of Bidding Documents is required by the procuring entity, payment could be made upon the submission of bids.
- (ii) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates made by the responsible unit of the procuring entity and that the estimates reflect the quality, supervision and risk and inflationary factors, as well as prevailing market prices, associated with the types of works or goods to be procured.
- (iii) The procuring entity has trained cost estimators on estimating prices and analyzing bid variances.
- (iv) The procuring entity has established a system to monitor and report bid prices relative to ABC and engineer's/procuring entity's estimate.
- (v) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.

14. Alternative Bids

- 14.1 Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.
- 14.2 Each Bidder shall submit only one Bid, either individually or as a partner in a JV. A Bidder who submits or participates in more than one bid (other than as a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

15. Bid Prices

- 15.1. The Bidder shall complete the appropriate Schedule of Prices included herein, stating the unit prices, total price per item, the total amount and the expected countries of origin of the Goods to be supplied under this Project.

- 15.2. The Bidder shall fill in rates and prices for all items of the Goods described in the Schedule of Prices. Bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, Schedule of Prices, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to the Government, except those required by law or regulations to be accomplished.
- 15.3. The terms Ex Works (EXW), Cost, Insurance and Freight (CIF), Cost and Insurance Paid to (CIP), Delivered Duty Paid (DDP), and other trade terms used to describe the obligations of the parties, shall be governed by the rules prescribed in the current edition of the International Commercial Terms (INCOTERMS) published by the International Chamber of Commerce, Paris.
- 15.4. Prices indicated on the Price Schedule shall be entered separately in the following manner:
- (a) For Goods offered from within the Procuring Entity's country:
 - (i) The price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable);
 - (ii) The cost of all customs duties and sales and other taxes already paid or payable;
 - (iii) The cost of transportation, insurance, and other costs incidental to delivery of the Goods to their final destination; and
 - (iv) The price of other (incidental) services, if any, listed in the **BDS**.
 - (b) For Goods offered from abroad:
 - (i) Unless otherwise stated in the **BDS**, the price of the Goods shall be quoted DDP with the place of destination in the Philippines as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.
 - (ii) The price of other (incidental) services, if any, listed in the **BDS**.

- (c) For Services, based on the form which may be prescribed by the Procuring Entity, in accordance with existing laws, rules and regulations
- 15.5. Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation or price escalation on any account. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 24.

All bid prices for the given scope of work in the contract as awarded shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances. Upon the recommendation of the Procuring Entity, price escalation may be allowed in extraordinary circumstances as may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon approval by the GPPB. Nevertheless, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GOP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

16. Bid Currencies

- 16.1. Prices shall be quoted in the following currencies:
- (a) For Goods that the Bidder will supply from within the Philippines, the prices shall be quoted in Philippine Pesos.
 - (b) For Goods that the Bidder will supply from outside the Philippines, the prices may be quoted in the currency(ies) stated in the **BDS**. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate as published in the *Bangko Sentral ng Pilipinas* (BSP) reference rate bulletin on the day of the bid opening.
- 16.2. If so allowed in accordance with ITB Clause 16.1, the Procuring Entity for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the bid price is expressed to Philippine Pesos at the foregoing exchange rates.
- 16.3. Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.

17. Bid Validity

- 17.1. Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) calendar days from the date of the opening of bids.
- 17.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. The bid security described in **ITB Clause 18** should also be extended corresponding to the extension of the bid validity period at the least. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

18. Bid Security

- 18.1. The Bidder shall submit a Bid Securing Declaration or any form of Bid Security in the amount stated in the **BDS**, which shall be not less than the percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Not Less than the Percentage of the ABC)
<p>(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.</p> <p><i>For biddings conducted by LGUs, the Cashier's/Manager's Check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	Two percent (2%)
<p>(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.</p> <p><i>For biddings conducted by LGUs, Bank Draft/Guarantee, or Irrevocable Letter of</i></p>	

<p><i>Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.</p>	<p>Five percent (5%)</p>

The Bid Securing Declaration mentioned above is an undertaking which states, among others, that the Bidder shall enter into contract with the procuring entity and furnish the performance security required under ITB Clause 33.2, within ten (10) calendar days from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as provided in the guidelines issued by the GPPB.

- 18.2. The bid security should be valid for the period specified in the **BDS**. Any bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.
- 18.3. No bid securities shall be returned to Bidders after the opening of bids and before contract signing, except to those that failed or declared as post-disqualified, upon submission of a written waiver of their right to file a request for reconsideration and/or protest, or upon the lapse of the reglementary period to file a request for reconsideration or protest. Without prejudice on its forfeiture, bid securities shall be returned only after the Bidder with the Lowest Calculated Responsive Bid (LCRB) has signed the contract and furnished the performance security, but in no case later than the expiration of the bid security validity period indicated in ITB Clause 18.2.
- 18.4. Upon signing and execution of the contract pursuant to ITB Clause 32, and the posting of the performance security pursuant to ITB Clause 33, the successful Bidder's bid security will be discharged, but in no case later than the bid security validity period as indicated in the ITB Clause 18.2.
- 18.5. The bid security may be forfeited:
 - (a) if a Bidder:

- (i) withdraws its bid during the period of bid validity specified in ITB Clause 17;
 - (ii) does not accept the correction of errors pursuant to ITB Clause 28.3(b);
 - (iii) has a finding against the veracity of any of the documents submitted as stated in ITB Clause 29.2;
 - (iv) submission of eligibility requirements containing false information or falsified documents;
 - (v) submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding;
 - (vi) allowing the use of one's name, or using the name of another for purposes of public bidding;
 - (vii) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the LCRB;
 - (viii) refusal or failure to post the required performance security within the prescribed time;
 - (ix) refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
 - (x) any documented attempt by a Bidder to unduly influence the outcome of the bidding in his favor;
 - (xi) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
 - (xii) all other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.
- (b) if the successful Bidder:
- (i) fails to sign the contract in accordance with ITB Clause 32; or

- (ii) fails to furnish performance security in accordance with ITB Clause 33.

19. Format and Signing of Bids

- 19.1. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VIII. Bidding Forms on or before the deadline specified in the ITB Clauses 21 in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under ITB Clause 12.1, and the second shall contain the financial component of the bid. This shall also be observed for each lot in the case of lot procurement.
- 19.2. Forms as mentioned in ITB Clause 19.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.
- 19.3. The Bidder shall prepare and submit an original of the first and second envelopes as described in ITB Clauses 12 and 13. In addition, the Bidder shall submit copies of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.4. Each and every page of the Bid Form, including the Schedule of Prices, under Section VIII-Bidding Forms hereof, shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the bid.
- 19.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

20. Sealing and Marking of Bids

- 20.1. Bidders shall enclose their original eligibility and technical documents described in ITB Clause 12 in one sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT", and the original of their financial component in another sealed envelope marked "ORIGINAL - FINANCIAL COMPONENT", sealing them all in an outer envelope marked "ORIGINAL BID".
- 20.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as "COPY NO. ____ - TECHNICAL COMPONENT" and "COPY NO. ____ - FINANCIAL COMPONENT" and the outer envelope as "COPY NO. ____", respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.

- 20.3. The original and the number of copies of the Bid as indicated in the **BDS** shall be typed or written in ink and shall be signed by the Bidder or its duly authorized representative/s.
- 20.4. All envelopes shall:
- (a) contain the name of the contract to be bid in capital letters;
 - (b) bear the name and address of the Bidder in capital letters;
 - (c) be addressed to the Procuring Entity's BAC in accordance with **ITB Clause 1.1**;
 - (d) bear the specific identification of this bidding process indicated in the **ITB Clause 1.2**; and
 - (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with **ITB Clause 21**.
- 20.5. Bid envelopes that are not properly sealed and marked, as required in the bidding documents, shall not be rejected, but the Bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC or the Procuring Entity shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.

D. Submission and Opening of Bids

21. Deadline for Submission of Bids

Bids must be received by the Procuring Entity's BAC at the address and on or before the date and time indicated in the **BDS**. In case the deadline for submission of bids fall on a non-working day duly declared by the president, governor or mayor or other government official authorized to make such declaration, the deadline shall be the next working day.

22. Late Bids

Any bid submitted after the deadline for submission and receipt of bids prescribed by the Procuring Entity, pursuant to **ITB Clause 21**, shall be declared "Late" and shall not be accepted by the Procuring Entity. The BAC shall record in the minutes of bid submission and opening, the Bidder's name, its representative and the time the late bid was submitted.

23. Modification and Withdrawal of Bids

23.1. The Bidder may modify its bid after it has been submitted; provided that the modification is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid but shall be allowed to

submit another bid equally sealed and properly identified in accordance with **ITB Clause 20**, linked to its original bid marked as "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" and stamped "received" by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.

- 23.2 A Bidder may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Letter of Withdrawal must be executed by the duly authorized representative of the Bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.
- 23.3. Bids requested to be withdrawn in accordance with **ITB Clause 23.1** shall be returned unopened to the Bidders. A Bidder, who has acquired the bidding documents, may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of bids. A Bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- 23.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Bidder's bid security, pursuant to **ITB Clause 18.5**, and the imposition of administrative, civil and criminal sanctions as prescribed by RA 9184 and its IRR.

24. Opening and Preliminary Examination of Bids

- 24.1. The BAC shall open the bids in public, immediately after the deadline for the submission and receipt of bids, as specified in the **BDS**. In case the Bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the Bids submitted and reschedule the opening of Bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the PhilGEPS website and the website of the Procuring Entity concerned.
- 24.2. Unless otherwise specified in the **BDS**, the BAC shall open the first bid envelopes and determine each Bidder's compliance with the documents prescribed in **ITB Clause 12**, using a non-discretionary "pass/fail" criterion. If a Bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or

patently insufficient shall be considered as “failed”. Otherwise, the BAC shall rate the said first bid envelope as “passed”.

- 24.3. Unless otherwise specified in the BDS, immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated “passed”. The second envelope of each complying bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC unless otherwise provided in **ITB Clause 13.2**, the BAC shall rate the bid concerned as “failed”. Only bids that are determined to contain all the bid requirements for both components shall be rated “passed” and shall immediately be considered for evaluation and comparison.
- 24.4. Letters of Withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened.
- 24.5. All members of the BAC who are present during bid opening shall initial every page of the original copies of all bids received and opened.
- 24.6. In the case of an eligible foreign bidder as described in **ITB Clause 5**, the following Class “A” Documents may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign Bidder concerned, which shall likewise be uploaded and maintained in the PhilGEPS in accordance with Section 8.5.2 of the IRR:
 - (a) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives;
 - (b) Mayor’s/Business permit issued by the local government where the principal place of business of the bidder is located; and
 - (c) Audited Financial Statements showing, among others, the prospective bidder’s total and current assets and liabilities stamped “received” by the Bureau of Internal Revenue or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two years from the date of bid submission.
- 24.7. Each partner of a joint venture agreement shall likewise submit the requirements in **ITB Clause 12.1(a)(i)**. Submission of documents required under **ITB Clauses 12.1(a)(ii) to 12.1(a)(iii)** by any of the joint venture partners constitutes compliance.

- 24.8. The Procuring Entity shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.
- 24.9. The bidders or their duly authorized representatives may attend the opening of bids. The BAC shall ensure the integrity, security, and confidentiality of all submitted bids. The Abstract of Bids as read and the minutes of the bid opening shall be made available to the public upon written request and payment of a specified fee to recover cost of materials.
- 24.10. To ensure transparency and accurate representation of the bid submission, the BAC Secretariat shall notify in writing all bidders whose bids it has received through its PhilGEPS-registered physical address or official e-mail address. The notice shall be issued within seven (7) calendar days from the date of the bid opening.

E. Evaluation and Comparison of Bids

25. Process to be Confidential

- 25.1. Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise allowed in the case of ITB Clause 26.
- 25.2. Any effort by a bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's bid.

26. Clarification of Bids

To assist in the evaluation, comparison, and post-qualification of the bids, the Procuring Entity may ask in writing any Bidder for a clarification of its bid. All responses to requests for clarification shall be in writing. Any clarification submitted by a Bidder in respect to its bid and that is not in response to a request by the Procuring Entity shall not be considered.

27. Domestic Preference

- 27.1. Unless otherwise stated in the **BDS**, the Procuring Entity will grant a margin of preference for the purpose of comparison of bids in accordance with the following:

- (a) The preference shall be applied when the lowest Foreign Bid is lower than the lowest bid offered by a Domestic Bidder.
 - (b) For evaluation purposes, the lowest Foreign Bid shall be increased by fifteen percent (15%).
 - (c) In the event that the lowest bid offered by a Domestic Bidder does not exceed the lowest Foreign Bid as increased, then the Procuring Entity shall award the contract to the Domestic Bidder at the amount of the lowest Foreign Bid.
 - (d) If the Domestic Bidder refuses to accept the award of contract at the amount of the Foreign Bid within two (2) calendar days from receipt of written advice from the BAC, the Procuring Entity shall award to the bidder offering the Foreign Bid, subject to post-qualification and submission of all the documentary requirements under these Bidding Documents.
- 27.2. A Bidder may be granted preference as a Domestic Bidder subject to the certification from the DTI that the Bidder is offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

28. Detailed Evaluation and Comparison of Bids

- 28.1. The Procuring Entity will undertake the detailed evaluation and comparison of bids which have passed the opening and preliminary examination of bids, pursuant to ITB Clause 24, in order to determine the Lowest Calculated Bid.
- 28.2. The Lowest Calculated Bid shall be determined in two steps:
- (a) The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
 - (b) The ranking of the total bid prices as so calculated from the lowest to the highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 28.3. The Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary pass/fail criteria. The BAC shall consider the following in the evaluation of bids:
- (a) Completeness of the bid. Unless the BDS allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, Schedule of Prices, shall be considered non-responsive and,

thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to the Procuring Entity, except those required by law or regulations to be provided for; and

- (b) Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications. Any adjustment shall be calculated in monetary terms to determine the calculated prices.
- 28.4. Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the BDS.
 - 28.5. The Procuring Entity's evaluation of bids shall be based on the bid price quoted in the Bid Form, which includes the Schedule of Prices.
 - 28.6. Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.
 - 28.7. If so indicated pursuant to **ITB Clause 1.2**, Bids are being invited for individual lots or for any combination thereof, provided that all Bids and combinations of Bids shall be received by the same deadline and opened and evaluated simultaneously so as to determine the Bid or combination of Bids offering the lowest calculated cost to the Procuring Entity. Bid prices quoted shall correspond to all items specified for each lot and to all quantities specified for each item of a lot. Bid Security as required by **ITB Clause 18** shall be submitted for each contract (lot) separately. The basis for evaluation of lots is specified in **BDS Clause 28.3**.

29. Post-Qualification

- 29.1. The BAC shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid complies with and is responsive to all the requirements and conditions specified in **ITB Clauses 5, 12, and 13**.

- 29.2. Within a non-extendible period of five (5) calendar days from receipt by the bidder of the notice from the BAC that it submitted the Lowest Calculated Bid, the Bidder shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) and other appropriate licenses and permits required by law and stated in the BDS.

Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award. Provided in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the bid security in accordance with Section 69 of the IRR of RA 9184.

- 29.3. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to ITB Clauses 12 and 13, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion, which shall be completed within a period of twelve (12) calendar days.
- 29.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the LCRB, and recommend to the HoPE the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower.
- 29.5. A negative determination shall result in rejection of the Bidder's Bid, in which event the Procuring Entity shall proceed to the next Lowest Calculated Bid with a fresh period to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the LCRB is determined for recommendation for contract award.
- 29.6. Within a period not exceeding fifteen (15) calendar days from the determination by the BAC of the LCRB and the recommendation to award the contract, the HoPE or his duly authorized representative shall approve or disapprove the said recommendation.
- 29.7. In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds as provided for under Section 41 of the IRR of RA 9184, the HoPE shall notify the BAC and the Bidder in writing of such decision and the grounds for it. When applicable, the BAC shall conduct a post-qualification of the Bidder with the next Lowest Calculated Bid. A request for reconsideration may be filed by the bidder with the HoPE in accordance with Section 37.1.3 of the IRR of RA 9184.

30. Reservation Clause

- 30.1. Notwithstanding the eligibility or post-qualification of a Bidder, the Procuring Entity concerned reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said Bidder, or that there has been a change in the Bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the Procuring Entity shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.
- 30.2. Based on the following grounds, the Procuring Entity reserves the right to reject any and all bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:
- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the Bidders, or if the collusion is between or among the bidders themselves, or between a Bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
 - (b) If the Procuring Entity's BAC is found to have failed in following the prescribed bidding procedures; or
 - (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the HoPE;
 - (ii) If the project is no longer necessary as determined by the HoPE; and
 - (iii) If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.
- 30.3. In addition, the Procuring Entity may likewise declare a failure of bidding when:

- (a) No bids are received;
- (b) All prospective Bidders are declared ineligible;
- (c) All bids fail to comply with all the bid requirements or fail post-qualification; or
- (d) The bidder with the LCRB refuses, without justifiable cause to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.

F. Award of Contract

31. Contract Award

- 31.1. Subject to **ITB Clause 29**, the HoPE or its duly authorized representative shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 31.2. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award duly received by the Bidder or its representative personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the Procuring Entity.
- 31.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
 - (a) Submission of valid JVA, if applicable, within ten (10) calendar days from receipt of the Notice of Award;
 - (b) Posting of the performance security in accordance with **ITB Clause 33**;
 - (c) Signing of the contract as provided in **ITB Clause 32**; and
 - (d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR of RA 9184.
- 31.4. At the time of contract award, the Procuring Entity shall not increase or decrease the quantity of goods originally specified in **Section VI. Schedule of Requirements**.

32. Signing of the Contract

- 32.1. At the same time as the Procuring Entity notifies the successful Bidder that its bid has been accepted, the Procuring Entity shall send the Contract Form to the Bidder, which contract has been provided in

the Bidding Documents, incorporating therein all agreements between the parties.

- 32.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security, sign and date the contract and return it to the Procuring Entity.
- 32.3. The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.
- 32.4. The following documents shall form part of the contract:
 - (a) Contract Agreement;
 - (b) Bidding Documents;
 - (c) Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted (*e.g.*, bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;
 - (d) Performance Security;
 - (e) Notice of Award of Contract; and
 - (f) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

33. Performance Security

- 33.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.
- 33.2. The Performance Security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount not less than the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank. <i>For biddings conducted by</i>	Five percent (5%)

<p><i>the LGUs, the Cashier's/Manager's Check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.</p> <p><i>For biddings conducted by the LGUs, the Bank Draft/Guarantee or Irrevocable Letter of Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.</p>	<p>Thirty percent (30%)</p>

33.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the Procuring Entity shall have a fresh period to initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the LCRB is identified and selected for recommendation of contract award. However, if no Bidder passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement, if necessary.

34. Notice to Proceed

Within seven (7) calendar days from the date of approval of the contract by the appropriate government approving authority, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful Bidder. All notices called for by the

terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.

35. Protest Mechanism

Decisions of the procuring entity at any stage of the procurement process may be questioned in accordance with Section 55 of the IRR of RA 9184.

Section III. Bid Data Sheet

Bid Data Sheet

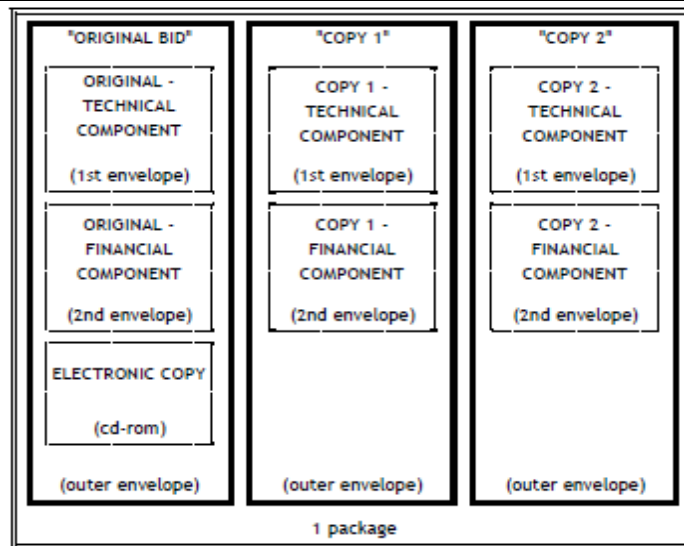
ITB Clause	
1.1	<p>The Procuring Entity is Power Sector Assets and Liabilities Management (PSALM) Corporation</p> <p>The name of the Contract is Operation and Maintenance Service Contract (“OMSC”) for the Malaya Thermal Power Plant located in Pililla, Rizal</p> <p>The identification number of the contract is 2018-PB-OMSC-MTPP-007-02.</p>
1.2	<p>The lot(s) and reference is/are:</p> <p>One (1)-year Operation and Maintenance Service Contract (“OMSC”) for the Malaya Thermal Power Plant (“Malaya TPP”) located in Pililla, Rizal</p>
2	<p>The Funding Source is:</p> <p>The Government of the Philippines (GOP) through PSALM’s CY 2018 Corporate Operating Budget (for the portion of the Contract to be performed in 2018) and to be included in 2019 Corporate Operating Budget (for the portion of the Contract to be performed in 2019) in the total amount of TWO HUNDRED THIRTEEN MILLION PESOS (PHP213,000,000.00).</p> <p>The name of the Project is:</p> <p>Procurement of Operation and Maintenance Service Contract (“OMSC”) for the Malaya Thermal Power Plant located in Pililla, Rizal.</p>
3.1	No further instructions.
5.1	No further instructions.
5.2	<p>Foreign bidders may be eligible to participate when any of the following circumstances exist:</p> <p>(a) When provided for under any Treaty or International or Executive Agreement as provided in Section 4 of the RA 9184 and its IRR;</p> <p>(b) When the foreign supplier is a citizen, corporation, or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;</p>

	<p>(c) When the goods sought to be procured are not available from local suppliers; or</p> <p>(d) When there is a need to prevent situations that defeat competition or restrain trade.</p>
5.4	<p>The Bidder must have completed, within the period specified in the Invitation to Bid and ITB Clause 12.1(a)(ii), a single contract that is similar to this Project, and the value of which, adjusted, if necessary, by the Bidder to current prices using the Philippine Statistics Authority (PSA) consumer price index, must be at least fifty percent (50%) of the ABC.</p> <p>For this purpose, similar contracts shall refer to contracts that involve services of similar nature and complexity as to the operation and maintenance of a Thermal Power Plant (i.e., Coal-fired utility, Oil & Gas-fired plants, Bio-fuel plants, etc.) with generation output delivered to a national grid.</p>
7	No further instructions.
8.1	<p>Subcontracting of the portions of Goods/Services will be subject to the approval of the Procuring Entity and is limited to a total of 10% of the Contract amount.</p> <p>However, no prior approval by the Procuring Entity is required for the following services:</p> <ol style="list-style-type: none"> 1. Security Services; and 2. Janitorial Services.
8.2	Subcontractors must comply with the Eligibility Documents stated in Section II. ITB, Clause 12.
9.1	The Procuring Entity will hold a pre-bid conference for this Project on 15 August 2018, 10:00AM at the G/F National Transmission Corporation (TransCo) Bldg., Power Center, Quezon Ave. cor. BIR Road, Diliman, Quezon City 1101.
10.1	<p>The Procuring Entity's address is:</p> <p>THE CHAIRPERSON Bids and Awards Committee 3/F National Transmission Corporation Bldg. Power Center, Quezon Ave. cor. BIR Road Diliman, Quezon City 1101 Tel. No.: (02) 902 9094 Email address: 50MBAC2018@psalm.gov.ph</p>

	BAC Secretariat: BACSec2018@psalm.gov.ph
12.1	<p>A. Bidders whose PhilGEPS registration/membership are not yet under Platinum Category per Section 8.5.2 of the IRR, shall submit the following documents in accordance with Section 23.1(a) of the IRR, in lieu of PhilGEPS Certificate of Registration and Membership:</p> <p>ELIGIBILITY DOCUMENTS</p> <p><u>CLASS "A" DOCUMENTS:</u></p> <ul style="list-style-type: none"> (i) Registration Certificate from SEC, DTI for sole proprietorship, or CDA for cooperatives. (ii) Mayor's/Business Permit for 2018 issued by the City or Municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas. (iii) Tax Clearance per E.O. No. 398, s. 2005, as finally reviewed and approved by the Bureau of Internal Revenue (BIR). Provisionary Tax clearance is not acceptable under GPPB Resolution No. 1-2014. (iv) The prospective bidder's Audited Financial Statement, showing, among others, the prospective bidder's total and current and liabilities, stamped "received" by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions, for the preceding calendar year, which should not be earlier than two (2) years from bid submission. <p>The Audited Financial Statement and its composition shall comply with the requirements of Section 2 of the Bureau of Internal Revenue [BIR] Revenue Regulation 07-2007 which states that:</p> <p>"x x x Section 2. COVERAGE. - The Financial Statements shall be composed of the following:</p> <ul style="list-style-type: none"> (iv.1) Balance Sheet; (iv.2) Income Statement/Profit and Loss Statement; (iv.3) Statement of Changes in Equity, showing either: <ul style="list-style-type: none"> a. All changes in equity b. Changes in equity, other than those arising from transactions with equity holders acting in their capacity as equity holders; (iv.4) Statement of Cash Flow; (iv.5) Notes, comprising a summary of significant

	<p>accounting policies and other explanatory notes; and</p> <p>(iv.6) Schedules attached to the afore-cited statements.</p> <p>1.3. x x x".</p> <p>B. Bidders may submit either their Class "A" Documents in accordance with Section 23.1(a) of the IRR or the PhilGEPS Certificate of Registration and Membership under Platinum Category, or a combination thereof.</p> <p>For Foreign Bidders, the Class "A" documents may be substituted by the appropriate equivalent documents in English, if any, issued by the country of the bidder concerned. Otherwise, it must be accompanied by a translation of the documents in English issued by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.</p> <p>In case of no equivalent documents for Foreign Bidders, the Bidder shall submit a certification from the concerned government agency of the country where the principal office of the Bidder is located and duly authenticated by the Philippine Embassy/Consul.</p>
12.1(a)(ii)	The bidder's SLCC similar to the contract to be bid should have been completed within the five (5) year period prior to the deadline for the submission and receipt of bids.
13.1(b)	No further instructions.
13.1(c)	No additional requirements.
13.2	<p>The ABC is TWO HUNDRED THIRTEEN MILLION PESOS (PhP213,000,000.00).</p> <p>Any bid exceeding the ABC or any of the financial components below, including applicable tax, shall not be accepted:</p> <p>(a) Fixed Service Fee: ONE HUNDRED NINETY-THREE MILLION EIGHT HUNDRED THIRTY THOUSAND PESOS (PhP193,830,000.00);</p> <p>(b) Operating Fee: NINETEEN MILLION ONE HUNDRED SEVENTY THOUSAND PESOS (PhP19,170,000.00).</p>
15.4(a)(iv)	No incidental services are required.

15.4(b)	No incidental services are required.
16.1(b)	The Bid prices, including all applicable taxes, shall be quoted in Philippine Pesos.
16.3	Not applicable.
17.1	Bids will be valid until 21 December 2018 .
18.1	<p>The bid security shall be in the form of a Bid Securing Declaration, or any of the following forms and amounts:</p> <ol style="list-style-type: none"> 1. The amount of not less than PhP4,260,000.00 [2% of ABC], if bid security is in cash, cashier's/manager's check, bank draft/guarantee or irrevocable letter of credit; or 2. The amount of not less than PhP10,650,000.00 [5% of ABC] if bid security is in Surety Bond. <p>If the Bid Security is in the form of cashier's/manager's check, the payee shall be "POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION".</p> <p>If the bidder opts to submit a surety bond callable upon demand by a surety or insurance company, such surety or insurance company must be duly certified by the Insurance Commission as authorized to issue such security.</p> <p>In view of the intent of the GPPB to give bidders the freedom to choose any form of acceptable bid security, if the bidder opts to submit surety bond, the required certification to be submitted by the bidder together with the surety bond must:</p> <ol style="list-style-type: none"> i. Unequivocally state that the surety or insurance company is specifically authorized to issue surety bonds callable on demand, and ii. Must be certified by the Insurance Commission. <p>If the Bank Guarantee or SBLC is issued by a foreign bank located abroad, the same needs to be confirmed by a commercial or universal bank licensed to do business in the Philippines.</p>
18.2	The bid security shall be valid until 21 December 2018 .
20.3	<p>Each Bidder shall submit one (1) original and two (2) copies of the first and second components of its bid.</p> <p>For example:</p>



In addition, all documents comprising the Technical and Financial Components shall be electronically scanned and recorded in a compact disc-read only memory [CD-ROM]. This CD-ROM shall be marked as "ELECTRONIC COPY" and shall be put inside the sealed envelope labeled "ORIGINAL BID".

All submissions must be contained and sealed in one (1) package.

Each sealed Bid shall be labeled as follows:

<HEADER/LABEL>
ATTENTION: THE BAC CHAIRPERSON
PSALM CORPORATION
3/F National Transmission Corporation (TransCo) Bldg., Power Center, Quezon Ave. cor. BIR Road, Diliman, Quezon City 1101

NAME OF PROJECT: _____
PROJECT REFERENCE NO. _____

DATE AND TIME OF OPENING OF BIDS: _____
SUBMITTED BY: BIDDER'S NAME AND SIGNATURE
ADDRESS: BIDDER'S ADDRESS

"DO NOT OPEN BEFORE DATE AND TIME OF OPENING OF BIDS"

<HEADER/LABEL> shall be:

1. "ORIGINAL BID PLUS TWO COPIES INSIDE" - for the main envelope
2. "ORIGINAL BID" - for the 1st outer envelope
 - a. "ORIGINAL - TECHNICAL COMPONENT" - for the 1st sub-envelope
 - b. "ORIGINAL - FINANCIAL COMPONENT" - for the 2nd sub-envelope

	<p>c. "ELECTRONIC COPY" - CD-ROM</p> <p>3. "COPY 1" - for the 2nd outer envelope</p> <p>a. "COPY 1 - TECHNICAL COMPONENT" - for the 1st sub-envelope</p> <p>b. "COPY 1- FINANCIAL COMPONENT" - for the 2nd sub-envelope</p> <p>4. "COPY 2" - for the 3rd outer envelope</p> <p>a. "COPY 2 - TECHNICAL COMPONENT" - for the 1st sub-envelope</p> <p>b. "COPY 2- FINANCIAL COMPONENT" - for the 2nd sub-envelope</p>
21	<p>The address for submission of bids is:</p> <p>The BAC Chairperson PSALM Corporation G/F National Transmission Corporation (TransCo) Bldg. Power Center, Quezon Ave. cor. BIR Road Diliman, Quezon City 1101</p> <p>The deadline for submission of bids is 30 August 2018, 10:00AM.</p>
24.1	<p>The place of bid opening is:</p> <p>PSALM Corporation G/F National Transmission Corporation (TransCo) Bldg. Power Center, Quezon Avenue cor. BIR Road Diliman, Quezon City 1101</p> <p>The date and time of bid opening is 30 August 2018, 10:15AM.</p>
24.2	No further instructions.
24.3	No further instructions.
27.1	No further instructions.
28.3 (a)	No further instructions.
28.4	No further instructions.
29.2	<p>The Bidder declared as the Lowest Calculated Bid (LCB) shall submit certified true copy of the following within five (5) calendar days from receipt of notice of post-qualification from the BAC:</p> <p>1. Latest income and business tax returns filed and paid through</p>

	<p>the BIR Electronic Filing and Payment System (eFPS);</p> <p>The latest income and business tax returns are those filed within the last six (6) months preceding the date of bid submission.</p> <p>Latest Annual ITR shall refer to the ITR for the year 2017 filed in 2018. For new establishments which have no annual ITR yet, it shall refer to the most recent quarter's ITR. Further, for areas where e-filing is yet to be implemented, a Certification to that effect from BIR main office is acceptable.</p> <p>Latest Business Tax Return refers to Value Added Tax (VAT) and/or Percentage Tax Returns, whichever is applicable covering the last quarter and the month prior to the bid opening. Bidders filing both the VAT and Percentage Tax Returns must submit both returns.</p> <ol style="list-style-type: none"> 2. Latest General Information Sheet and Articles of Incorporation and By Laws filed with the SEC, if applicable. 3. Updated PhilGEPS Certificate of Registration of Membership under Platinum category, if the bidder submitted Class "A" Documents during bid submission deadline. <p>During the post-qualification, the Lowest Calculated Bidder shall present the original copies of the following documents previously submitted during the Bid Submission:</p> <ol style="list-style-type: none"> a) Department of Trade and Industry (DTI) business name registration or Securities and Exchange Commission (SEC) registration certificate whichever is appropriate under existing laws of the Philippines; b) Articles of Incorporation and By-laws; c) Valid and current Mayor's/Business permit; d) Latest Audited Financial Statements stamped received by the BIR; e) For ongoing government and private contracts: <ol style="list-style-type: none"> 1. Notice of Award and/or Contract; and 2. Notice to Proceed issued by the Owner. f) For government and private contracts completed which are similar in nature and complexity to the Contract to be bid: <ol style="list-style-type: none"> 1. Contract; and 2. Certificate of Completion/Acceptance. <p>Foreign Bidders shall submit equivalent documents and/or Certificate of International Law of Reciprocity under R.A. 5183. If the equivalent documents are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency</p>
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	authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.
32.4(f)	No additional requirement.

Section IV. General Conditions of Contract

TABLE OF CONTENTS

1. DEFINITIONS.....	53
2. CORRUPT, FRAUDULENT, COLLUSIVE, AND COERCIVE PRACTICES.....	54
3. INSPECTION AND AUDIT BY THE FUNDING SOURCE	55
4. GOVERNING LAW AND LANGUAGE	55
5. NOTICES	56
6. SCOPE OF CONTRACT	56
7. SUBCONTRACTING	56
8. PROCURING ENTITY’S RESPONSIBILITIES.....	57
9. PRICES.....	57
10. PAYMENT	57
11. ADVANCE PAYMENT AND TERMS OF PAYMENT	58
12. TAXES AND DUTIES.....	59
13. PERFORMANCE SECURITY.....	59
14. USE OF CONTRACT DOCUMENTS AND INFORMATION	59
15. STANDARDS.....	60
16. INSPECTION AND TESTS	60
17. WARRANTY	61
18. DELAYS IN THE SUPPLIER’S PERFORMANCE.....	61
19. LIQUIDATED DAMAGES	62
20. SETTLEMENT OF DISPUTES.....	62
21. LIABILITY OF THE SUPPLIER	63
22. FORCE MAJEURE	63
23. TERMINATION FOR DEFAULT	63
24. TERMINATION FOR INSOLVENCY	64
25. TERMINATION FOR CONVENIENCE.....	64
26. TERMINATION FOR UNLAWFUL ACTS.....	65
27. PROCEDURES FOR TERMINATION OF CONTRACTS	65
28. ASSIGNMENT OF RIGHTS	67

29. CONTRACT AMENDMENT 67
30. APPLICATION..... 67

1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the supplies, equipment, machinery, spare parts, other materials and/or general support services which the Supplier is required to provide to the Procuring Entity under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this Section.
- (f) "SCC" means the Special Conditions of Contract.
- (g) "The Procuring Entity" means the organization purchasing the Goods, as named in the SCC.
- (h) "The Procuring Entity's country" is the Philippines.
- (i) "The Supplier" means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract and named in the SCC.
- (j) The "Funding Source" means the organization named in the SCC.
- (k) "The Project Site," where applicable, means the place or places named in the SCC.
- (l) "Day" means calendar day.
- (m) The "Effective Date" of the contract will be the date of signing the contract, however the Supplier shall commence

performance of its obligations only upon receipt of the Notice to Proceed and copy of the approved contract.

- (n) "Verified Report" refers to the report submitted by the Implementing Unit to the HoPE setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

2.1. Unless otherwise provided in the SCC, the Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Procuring Entity:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.
 - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
 - (iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.
 - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

- (v) "obstructive practice" is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or
 - (bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.

- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

2.2. Further the Funding Source, Borrower or Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with any of the practices mentioned in GCC Clause 2.1(a).

3. Inspection and Audit by the Funding Source

The Supplier shall permit the Funding Source to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

4. Governing Law and Language

4.1. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

4.2. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and

other documents pertaining to this Contract exchanged by the parties shall be written in English.

5. Notices

- 5.1. Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the SCC, which shall be effective when delivered and duly received or on the notice's effective date, whichever is later.
- 5.2. A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the SCC for GCC Clause 5.1.

6. Scope of Contract

- 6.1. The Goods and Related Services to be provided shall be as specified in Section VI. Schedule of Requirements.
- 6.2. This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned herein. Any additional requirements for the completion of this Contract shall be provided in the SCC.

7. Subcontracting

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. If subcontracting is allowed, the Supplier may identify its subcontractor during contract implementation. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under ITB Clause 12 and comply with the eligibility criteria specified in the BDS. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.

8. Procuring Entity's Responsibilities

- 8.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local public authorities, the Procuring Entity shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 8.2. The Procuring Entity shall pay all costs involved in the performance of its responsibilities in accordance with GCC Clause 6.

9. Prices

- 9.1. For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR or except as provided in this Clause.
- 9.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with GCC Clause 29.

10. Payment

- 10.1. Payments shall be made only upon a certification by the HoPE to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in GCC Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted pursuant to the SCC provision for GCC Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to GCC Clause 10.2, payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier. Payments shall be in accordance with the schedule stated in the SCC.

- 10.4. Unless otherwise provided in the SCC, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.
- 10.5. Unless otherwise provided in the SCC, payments using Letter of Credit (LC), in accordance with the Guidelines issued by the GPPB, is allowed. For this purpose, the amount of provisional sum is indicated in the SCC. All charges for the opening of the LC and/or incidental expenses thereto shall be for the account of the Supplier.

11. Advance Payment and Terms of Payment

- 11.1. Advance payment shall be made only after prior approval of the President and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex "D" of RA 9184.
- 11.2. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.
- 11.3. For Goods supplied from abroad, unless otherwise indicated in the SCC, the terms of payment shall be as follows:
 - (a) On Contract Signature: Fifteen Percent (15%) of the Contract Price shall be paid within sixty (60) days from signing of the Contract and upon submission of a claim and a bank guarantee for the equivalent amount valid until the Goods are delivered and in the form provided in Section VIII. Bidding Forms.
 - (b) On Delivery: Sixty-five percent (65%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents (i) through (vi) specified in the SCC provision on Delivery and Documents.
 - (c) On Acceptance: The remaining twenty percent (20%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the Procuring Entity's authorized representative. In the event that no inspection or acceptance certificate is issued by the Procuring Entity's authorized representative within forty-five (45) days of the date shown on the delivery receipt, the Supplier shall have the right to claim payment of the remaining twenty percent (20%) subject to the Procuring Entity's own verification of the reason(s) for the failure to issue documents (vii) and (viii) as described in the SCC provision on Delivery and Documents.

12. Taxes and Duties

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

13. Performance Security

13.1. Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security in any the forms prescribed in the ITB Clause 33.2.

13.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.

13.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.

13.4. The performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:

- (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;
- (b) The Supplier has no pending claims for labor and materials filed against it; and
- (c) Other terms specified in the SCC.

13.5. In case of a reduction of the contract value, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reduction is not more than fifty percent (50%) of the original performance security.

14. Use of Contract Documents and Information

14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the Procuring Entity's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

14.2. Any document, other than this Contract itself, enumerated in GCC Clause 14.1 shall remain the property of the Procuring Entity and shall

be returned (all copies) to the Procuring Entity on completion of the Supplier's performance under this Contract if so required by the Procuring Entity.

15. Standards

The Goods provided under this Contract shall conform to the standards mentioned in the Section VII. Technical Specifications; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

16. Inspection and Tests

- 16.1. The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The SCC and Section VII. Technical Specifications shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity. The Supplier shall provide the Procuring Entity with results of such inspections and tests.
- 16.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Clause 5.
- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

17. Warranty

- 17.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in the SCC. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the total Contract Price or other such amount if so specified in the SCC. The said amounts shall only be released after the lapse of the warranty period specified in the SCC; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 17.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in GCC Clause 17.4, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract and under the applicable law.

18. Delays in the Supplier's Performance

- 18.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity in Section VI. Schedule of Requirements.
- 18.2. If at any time during the performance of this Contract, the Supplier or its Subcontractor(s) should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the

delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, and upon causes provided for under GCC Clause 22, the Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.

- 18.3. Except as provided under GCC Clause 22, a delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 19, unless an extension of time is agreed upon pursuant to GCC Clause 29 without the application of liquidated damages.

19. Liquidated Damages

Subject to GCC Clauses 18 and 22, if the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, the Procuring Entity shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the maximum is reached, the Procuring Entity may rescind or terminate the Contract pursuant to GCC Clause 23, without prejudice to other courses of action and remedies open to it.

20. Settlement of Disputes

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4. In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."

- 20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

21. Liability of the Supplier

- 21.1. The Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines, subject to additional provisions, if any, set forth in the SCC.
- 21.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

22. Force Majeure

- 22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Supplier could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Supplier. Such events may include, but not limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

23. Termination for Default

- 23.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attends its implementation:

- (a) Outside of *force majeure*, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;
- (b) As a result of *force majeure*, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or
- (c) The Supplier fails to perform any other obligation under the Contract.

23.2. In the event the Procuring Entity terminates this Contract in whole or in part, for any of the reasons provided under GCC Clauses 23 to 26, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.

23.3. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

24. Termination for Insolvency

The Procuring Entity shall terminate this Contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Supplier.

25. Termination for Convenience

25.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The HoPE may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or

unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.

25.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:

- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
- (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.

25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the Procuring Entity which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the Procuring Entity before recovery may be made.

26. Termination for Unlawful Acts

26.1. The Procuring Entity may terminate this Contract in case it is determined *prima facie* that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:

- (a) Corrupt, fraudulent, and coercive practices as defined in ITB Clause 3.1(a);
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- (d) Any other act analogous to the foregoing.

27. Procedures for Termination of Contracts

27.1. The following provisions shall govern the procedures for termination of this Contract:

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such

- ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the HoPE shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
 - (i) that this Contract is being terminated for any of the ground(s) afore-mentioned, and a statement of the acts that constitute the ground(s) constituting the same;
 - (ii) the extent of termination, whether in whole or in part;
 - (iii) an instruction to the Supplier to show cause as to why this Contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.
 - (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
 - (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the HoPE a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating this Contract;
 - (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper described in item (d) above withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
 - (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
 - (g) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE; and

- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

28. Assignment of Rights

The Supplier shall not assign his rights or obligations under this Contract, in whole or in part, except with the Procuring Entity's prior written consent.

29. Contract Amendment

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

30. Application

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.

Section V. Special Conditions of Contract

Special Conditions of Contract

GCC Clause	
1.1(g)	The Procuring Entity is Power Sector Assets and Liabilities Management (PSALM) Corporation.
1.1(i)	The Supplier is <i>[to be inserted at the time of contract award]</i> .
1.1(j)	The Funding Source is The Government of the Philippines (GOP) through PSALM's CY 2018 Corporate Operating Budget (for the portion of the Contract to be performed in 2018) and to be included in 2019 Corporate Operating Budget (for the portion of the Contract to be performed in 2019) in the total amount of TWO HUNDRED THIRTEEN MILLION PESOS (Php213,000,000.00) .
1.1(k)	The Project site is Malaya Thermal Power Plant, Brgy. Malaya, Pililla, Rizal.
2.1	No further instructions.
5.1	The PSALM's address for Notices is: Office of the President and CEO PSALM Corporation 3/F National Transmission Corporation (TransCo) Bldg. Power Center, Quezon Ave. cor. BIR Road Diliman, Quezon City 1101 The Supplier's address for Notices is: <i>[Insert address including, name of contact, fax and telephone number]</i>
6.2	Additional requirements for the completion of this Contract are provided under Clause 2 of Section VI. Schedule of Requirements .
10.4	Not applicable.
10.5	Payment using LC is not allowed.
11.3	Not applicable.
13.4(c)	Please refer to Section VI. Schedule of Requirements Clause 7.0 .
16.1	None.
17.3	Not Applicable.
17.4	Not Applicable.
21.1	No additional provision.

Section VI. Schedule of Requirements

TABLE OF CONTENTS

SECTION VI. SCHEDULE OF REQUIREMENTS	70
1. Definition of Terms.....	72
2. Services	78
3. Owner’s Responsibilities.....	82
4. Operating Procedures.....	86
5. Fees.....	90
6. Payment and Taxes.....	92
7. Performance Security	93
8. Liability and Indemnity	94
9. Assignment.....	98
10. Insurance.....	98
11. Amendment to Order	100
12. Curtailment.....	102
13. Force Majeure.....	104
14. Termination for Cause	108
15. Pre-Termination in Case of Privatization	109
16. Ownership and Confidentiality of Documents and Information	109
17. Warranty	110
18. Waiver	111
19. Termination for Convenience.....	112
20. Settlement of Disputes	112
21. Effectivity and Term of Contract	112
22. Extension of Term by Agreement	112
23. Expiration of the Term	113
24. Assignment of Warranties/Guarantees.....	113
25. Governing Law of the Contract.....	113
26. Service of Notices	113
27. Change in Address for Notices.....	114
28. Entirety of Agreement	114
29. Validity Clause	114

1. Definition of Terms

1.1 In the Contract, except where the context otherwise requires, the following words and expressions shall have the meanings hereby assigned to them in this Clause:

1.	"Abandon" or "Abandoning" or "Abandonment"	<p>Shall mean:</p> <p>(a) The failure of the Operator to provide the Services to the Owner for sixty (60) consecutive calendar days, which failure (i) is not excused under the Contract or (ii) is not the result of a mechanical breakdown for which the Operator is diligently undertaking Maintenance and Repair, or</p> <p>(b) In the event that a suspension of the provision of the Services was agreed, the willful failure of the Operator to resume its provision of the Services within a reasonable period after the parties have agreed to the terms of such resumption.</p>
2.	"Additional Services"	<p>Shall mean services that are (i) not among the Services and (ii) are to be performed by the Operator under an Amendment to Order issued in accordance with Section VI. Schedule of Requirements Clause 11.1. For the avoidance of doubt, the term "Additional Services" includes but is not limited to major maintenance and repair activities due to causes not resulting from the Operator's fault or negligence, such as (i) the activities listed under the heading "Major Inspection and Repair" in Section VII. Technical Specifications Appendix 6, (ii) restoration works after catastrophic failure, and (iii) rehabilitation.</p>
3.	"Affiliate"	<p>Shall mean a subsidiary company and parent company and subsidiaries, directly or indirectly, of a common parent.</p>
4.	"Aggregate Fee Reduction Amount"	<p>Shall mean, as to an Invoice Period, the sum of the Fee Reduction Amounts for said Invoice Period.</p>
5.	"Amendment to Order"	<p>Shall mean an order for the performance of Additional Services issued by the Owner to the Operator in accordance with Section VI. Schedule of Requirements Clause 11.1.</p>

6.	"Amendment to Order Price"	Shall mean the amount payable by the Owner to the Operator under an Amendment to Order issued in accordance with Section VI. Schedule of Requirements Clause 11.1.
7.	"Curtail Malaya TPP Operation" or "Curtailment of Malaya TPP Operation"	Shall mean the shutdown of one or both generating units of the Malaya TPP.
8.	"Change of Circumstances"	Shall mean any significant change in the conditions for the Operation, Maintenance and Repair of the Malaya TPP as compared to conditions prevailing at the Effective Date, which (i) occurred after the Effective Date, and (ii) has an adverse effect on the Operator's income and/or performance.
7.	"Delivered Fuel"	Shall mean Fuel delivered by the Owner pursuant to Section VI. Schedule of Requirements Clause 3.2(a).
9.	"Demobilization Period"	Shall mean a period of thirty (30) days or such other period as may be agreed upon by the Parties, beginning on the day after the Expiration Date.
10	"Dispute"	Shall mean any dispute between the Parties arising out of, in relation to or in connection with the Contract (including a dispute as to the breach, termination, enforceability or invalidity of the Contract).
11.	"Effective Date"	Shall mean the date specified in the Notice to Proceed.
12.	"Emissions Limits"	Shall mean the limits under the emission standards prevailing before the effectivity of Department of Environment and Natural Resources Administrative Order No. 14, otherwise known as the Revised Quality Standards of 1992.
13.	"Event"	Shall mean an event where the Operator failed, by reason solely of its fault or negligence, to perform its obligation to deliver the capacity of the relevant generating unit of the Malaya TPP requested by the System Operations/NGCP or the Owner in accordance with Section VI. Schedule of Requirements Clause 5.1(a); provided, that the duration of said event exceeded a continuous twenty-four (24)-hour period. For the avoidance of doubt, said event shall not be considered an Event if its duration did not exceed a continuous twenty-four (24)-hour period.
14.	"Expiration Date"	Shall mean the last day of the Term.

15.	"Fee Reduction Amount"	Shall mean, as to each Event, the amount to be deducted from the Service Fee.
16.	"Fuel"	Shall mean fuel oil necessary for the Operation, Maintenance and Repair of the Malaya TPP.
17.	"PSALM-Owned General Plant Equipment"	Shall mean the equipment owned by the Owner, available at the Malaya TPP on the Effective Date, and listed in Section VII. Technical Specifications. Appendix 8.
18.	"Good Engineering Standards and Practices"	Shall mean the application of methods and procedures accepted by and applicable to the international electricity generation industry for operation, maintenance and repair of similar facilities under the same or similar circumstances.
19.	"Grid"	Shall have the meaning given to it in the Grid Code, but, for purposes of the Contract, shall be limited to the Luzon Grid.
20.	"Grid Code"	Shall mean the Philippine Grid Code adopted by the Energy Regulatory Commission through its Resolution No. 115, including any amendment or supplement thereto.
21.	"Initial Stock"	Shall mean Stock owned by the Owner, available at the Malaya TPP on the Effective Date, and listed in Section VII. Technical Specifications. Appendix 2.
22.	"Invoice Period"	Shall mean the period from 1200H on the twenty fifth (25th) day of a month to 1200H on the twenty fifth (25th) day of the following month.
23.	"Lubricants"	Shall mean lubrication oil and other lubricants necessary for the Operation, Maintenance and Repair of the Malaya TPP.
24.	"Maintenance and Repair", "Maintain and Repair" or "Maintaining and Repairing"	Shall mean the following activities undertaken in accordance with the Manuals and Good Engineering Standards and Practices with a view to keeping the Malaya TPP or part thereof in good working condition and preventing premature deterioration: (a) any inspection to assess the condition of the Malaya TPP or part thereof, including (i) the activities listed under the heading "Preventive Inspection" in Section VII. Technical Specifications. Appendix 6, and (ii) the replacement of worn parts with (1) the Operator's Stock, as required, and (2) Stock that is not Operator's Stock pursuant to an Amendment to Order issued under Section VI. Schedule of Requirements Clause 11.1; and

		(b) the taking of corrective and protective measures.
25.	"Malaya TPP", "MTPP"	Shall mean the Malaya Thermal Power Plant, comprised of two (2) generating units, (i) MTPP 1 - 300MW and (ii) MTPP 2 - 350MW.
26.	"Manuals"	Shall mean the operating and maintenance service documentation and contents therein as available at the Malaya TPP on the Effective Date and revised from time to time as recommended by the equipment manufacturers, or as complemented and amended by the Operator as a consequence of experience gained at the Malaya TPP.
27.	"Must-Run Unit" or MRU	Shall mean a generating unit identified and instructed, by the System Operator to either a) come on-line, or b) provide additional energy on a particular Trading Interval but the Dispatch of which is said to be Out of Merit, to address System Security requirements. For clarity, MRU shall be utilized only after the System Operator has exhausted all available Ancillary Services (as defined under 2016 Philippine Grid Code).
28.	"NGCP"	Shall mean the National Grid Corporation of the Philippines.
29.	"Non-Specification Fuel"	Shall mean Fuel that does not meet the Specifications.
30.	"Notice of Intention"	Shall mean the notice by the aggrieved Party to the other Party setting out in full the particulars of the Dispute.
31.	"Operate" or "Operation" or "Operating"	Shall mean the production of electrical energy from the Malaya TPP in accordance with the recommendations of the equipment manufacturers, the Manuals, Good Engineering Standards and Practices, the Grid Code and any other Grid requirements, the procedures established for the Malaya TPP and any applicable license or law.
32.	"Operating Fee"	Shall mean the fee payable by the Owner to the Operator for the Operation, Maintenance and Repair of the Malaya TPP, and shall be deemed to include the payment for the use or consumption of certain consumables and materials for the Operation, Maintenance and Repair of the Malaya TPP. For the avoidance of doubt, the amount of the Operating Fee shall be calculated in accordance with Section VI. Schedule of Requirements Clause 5.2.
33.	"Operating Fee Rate"	Shall mean the amount payable by the Owner to the Operator for each Operating Hour.

34.	"Operating Hour"	Shall mean, with respect to each generating unit of the Malaya TPP, any hour or part thereof, during which such generating unit was Operating while connected to the Grid.
35.	"Operator" or "Contractor"	Shall mean the Supplier of the Services under the Contract.
36.	"Operator's Stock"	Shall mean Stock owned by the Operator and intended for the Operation, Maintenance and Repair of the Malaya TPP to be provided and listed in Section VII. Technical Specifications Appendix 3 by the Operator.
37.	"Parties"	Shall mean the Owner and the Operator collectively and anyone authorized to act on their behalf.
38.	"Party"	Shall mean the Owner or the Operator individually and anyone authorized to act on their behalf.
39.	"Performance Security"	Shall mean a Performance Security acceptable to the Owner to guarantee the faithful performance of the Operator's obligations under the Contract.
40.	"Permits"	Shall mean permits, licenses and authorizations which are necessary to Operate, Maintain and Repair the Malaya TPP.
41.	"Peso" or "PS" or "PHP"	Shall refer to the legal currency of the Republic of the Philippines.
42.	"Planned Maintenance Schedule"	Shall have the meaning given to it in Section VI. Schedule of Requirements Clause 4.3.
43.	"RA 9136"	Shall mean the Republic Act No. 9136 of the Republic of the Philippines or the Electric Power Industry Reform Act.
44.	"Rules"	Shall mean the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules as at present in force.
45.	"Services"	Shall mean Operation and Maintenance of Malaya TPP and other related obligation as provided in the contract, including, but not limited to, security and janitorial services, supply of domestic water, among others.
46.	"Service Fee"	Shall mean the fee of a fixed amount for each Invoice Period payable by the Owner to the Operator for the Operation, Maintenance and Repair of the Malaya TPP.
47.	"Specification Fuel"	Shall mean Fuel that meets the Specifications.
48.	"Specifications"	Shall mean the manufacturer's specifications for

		Fuel set as provided in Section VII. Technical Specifications Appendix 4.
49.	"Stock"	Shall mean any spare parts, tools, instruments and other materials and equipment, necessary for the Operation, Maintenance and Repair of the Malaya TPP.
50.	"System Operations"	Shall mean the entity within NGCP which is responsible for the day-to-day management of the Grid.
51.	"Term"	Shall mean the period commencing on the Effective Date and ending twelve (12) months thereafter.
52.	"T-Bill Rate"	Shall mean, in respect of any day for which interest based on such rate is being calculated under the Contract, the rate per annum at which Philippine Treasury Bills (with terms of 91 days) were issued by the Philippine Government on the Wednesday immediately preceding such day, or, if there were no Treasury Bills issued on such Wednesday, on the next Wednesday immediately preceding such Wednesday on which Treasury Bills were issued, provided, that if for 30 days no Philippine Treasury Bills are issued, then "T-Bill Rate" shall mean such alternative interest as may be agreed between the Parties at such time, or , in the absence of agreement, the rate per annum certified and evidenced by the Owner to be its effective cost of borrowing at such time.

1.2 Interpretation

In the Contract:

- a. references to the masculine shall include the feminine and references in the singular shall include references in the plural and vice versa, and words denoting natural persons shall include companies, corporations and any other legal entity and vice versa;
- b. references to the word "include" or "including" are to be construed without limitation;
- c. except where the context otherwise requires, references to a particular Clause, Sub-Clause, Paragraph, Appendix or Schedule, shall be a reference to that Clause, Sub-Clause, Paragraph, Appendix or Schedule in or to the Contract;
- d. any reference to another agreement or other instrument shall be construed as a reference to that other agreement or other instrument

as the same may have been, or may from time to time be, amended, varied, or supplemented; and

- e. the table of contents and the headings to each of the Clauses, Sub-Clauses, Paragraphs, and Appendices or Schedules are inserted for convenience only and shall not affect the interpretation of the Contract.

2. Services

The Operator agrees to provide the Services and the Additional Services for the duration of the Term, subject to the terms and conditions of the contract and in consideration of the payments to be made by the Owner in accordance with Section VI. Schedule of Requirements Clauses 5 and 6.

2.1. Obligations of the Operator

- (a) Ensure that the emissions from the Malaya TPP, when measured in the stacks, do not exceed the Emissions Limits. The Emissions Limits shall not apply if the Owner instructs the Operator, in writing, to use untested Fuel or Non-Specification Fuel. If the emissions from the Malaya TPP exceed the Emissions Limits due to the Operator's fault and such excess results in the Curtailment of Malaya TPP Operation, then the Service Fee shall be reduced in proportion to the number of days of Curtailment of Malaya TPP Operation. All Fuel to be supplied by Owner shall comply with the Fuel Specifications and will be adjusted to comply with new environmental emissions control standards that the DENR may from time to time prescribe.
- (b) Allow the Owner, at any time and at Owner's cost, to test the emission levels; provided, that any such test (i) shall be notified to the Operator at least one week in advance and (ii) shall not prevent the Operator from carrying out scheduled maintenance; provided further, that in case of Curtailment of Malaya TPP Operation at the agreed time for such tests, the Operator shall be entitled to receive the full amount of the Service Fee for such period.
- (c) Engage properly trained and experienced personnel in adequate numbers, and, if any of the required skills are locally available, engage Philippine nationals for this purpose to the extent reasonably possible.
- (d) Provide the Operator's Stock necessary to provide the Services, and if Stock other than the Operator's Stock is necessary to provide the Services, use the Initial Stock and Philippine products and materials to the extent reasonably possible.

The Operator's Stock shall be used by the Operator to regularly monitor, conduct and provide the materials and parts for all maintenance activities such as, but not limited to, preventive inspection, tests, leakages, water quality, preservation, noise, vibrations, temperature, pressure, and alignment for all mechanical and electrical equipment, controls, auxiliaries and accessories, pipes, valves and fittings, and other equipment/facilities of the Malaya TPP.

- (e) The Operator shall, during the duration of the Contract, ensure that the stock listed in "**Section VII. Technical Specifications Appendix 3. Operator's Stock**" and stocks/spare parts other than the Operator's Stock and Initial Stock shall be made available whenever necessary and/or required to continuously provide the Services subject to an Amendment to Order to be issued, as may be applicable, pursuant to **Section VI. Schedule of Requirements Clause 11.1.**
- (f) Use the guidelines and procedures for the management and control of the Malaya TPP that are in place as of the Effective Date, with due regard to licenses, laws, Manuals, the Grid Code and Good Engineering Standards and Practices.
- (g) Be responsible for the cleanliness, general safety and security within the Malaya TPP, and supervise personnel and third parties who have been authorized by the Operator to enter the Malaya TPP to ensure their safety and to guard against pilferage.
- (h) Take all reasonable care to prevent accidents and act in accordance with all pertinent laws and regulations pertaining to the Operation, Maintenance and Repair of the Malaya TPP.
- (i) Be responsible for the clean-up, handling and disposal of waste products resulting from the Operation, Maintenance or Repair of the Malaya TPP, including but not limited to ash, sludge, oil, soot, solid waste and dirty water, in accordance with applicable regulations in the Philippines. All disposal activities shall be undertaken through public bidding or auction, to be witnessed by the Owner's representatives. Any revenue generated therefrom shall be remitted to the Owner.
- (j) Maintain and regularly calibrate, repair or replace where necessary the protection relays.
- (k) Purchase Lubricants at its own cost.
- (l) Not impose any unreasonable restriction on the Owner with respect to the delivery of Fuel.
- (m) Maintain a telecommunication link between the System Operations/NGCP and the Malaya TPP's main control room.

- (n) Assume the Owner's task in coordinating and monitoring the implementation of Local Government Units' projects under Energy Regulation No. 1-94 and Energy Regulatory Commission (ERC) requirements.
- (o) Provide assistance, access and cooperation to the Owner and/or its service provider in the conduct of repair and maintenance of all plant equipment and auxiliaries to be procured by the Owner.
- (p) Provide its own General Plant Equipment (GPE) other than PSALM-Owned General Plant Equipment necessary for the day-to-day operations of Malaya TPP.

2.2. Adoption of Safety Measures

- (a) The Operator shall issue safety regulations and procedures for the Malaya TPP and its Operation, Maintenance and Repair in accordance with Good Engineering Standards and Practices, the Manuals and any applicable statutory regulations. The Operator shall apprise its personnel of such regulations and procedures and train its personnel in the same and ensure that its personnel comply with such regulations and procedures in performing their duties. The Operator shall provide the Owner with a copy of such regulations and procedures and amendments thereto and the Owner shall comply with them and ensure that any third party which it invites to the Malaya TPP does the same. If Operator shall undertake work in relation to equipment or systems belonging to the Owner but which are not part of the Malaya TPP, the Operator shall comply with the safety regulations and procedures stipulated by the Owner (including adhering to the conditions of issued permits) to the extent that such regulations and procedures are made known to the Operator.
- (b) The Operator shall appoint a safety officer as required by the Department of Labor and Employment.
- (c) The Operator shall grant access to the personnel of NGCP, NPC and TRANSCO to the Malaya TPP in accordance with the rules to be imposed by the Operator. Other concerned agencies/parties may only be granted access to the Malaya TPP upon prior approval of PSALM, in which approval shall not be unreasonably withheld.

2.3. Operating and Maintenance Records

- (a) The Operator shall submit to the Owner:
 - i. Every day, a daily log sheet for each generating Plant in the Malaya TPP, which shall record all material actions of the Operator's personnel, power production, consumption of Fuel,

changes in operating status, outages, protective apparatus operations, any unusual findings during routine inspections and any changes in settings, and which shall be sufficiently detailed and accurate to allow the calculation of the actual availability of the Malaya TPP, the Service Fees and the Operating Fees; and

- ii. for every Invoice Period, a summary daily operating report and other information which the Owner may reasonably request.
- (b) The Operator shall keep additional Plant records on Maintenance and Repairs executed during planned and forced outages of the Malaya TPP or parts thereof, safety, access, lubrication, preventative Maintenance, design modifications or changes and statutory and insurance inspections and tests.
 - (c) The Operator shall submit to the Owner on a monthly basis a detailed report of the usage of Initial Stock in the Operation, Maintenance and Repair of the Malaya TPP, including the price of the Initial Stock that was used.
 - (d) The Operator shall (i) take a photograph of the billing meters in the Malaya TPP at 1200H or at such other time agreed between the Owner and the Operator on the twenty-fifth (25th) day of every month, and (ii) shall submit the photograph to the Owner.

2.4. Operator recognizes Owner's Title

The Operator recognizes the Owner's ownership and/or title to any and all items, drawings, specifications, provided by the Owner, together with any other document or item furnished by the Owner to the Operator during the Term and all such items shall remain the property of the Owner.

The Operator recognizes that title to Stock that is used or installed in the Malaya TPP by the Operator pursuant to the Contract shall pass to the Owner upon the use or installation of such Stock. Title to the Operator's Stock shall remain with the Operator.

2.5. Operator's Guarantee Concerning Non-encumbrance of Title

The Operator guarantees that any such item to which the Owner holds title shall not be subject to any lien or to any sub-contractor's retention of title. Any such item which remains in the possession of the Operator or any subcontractor shall be marked and otherwise identified by the Operator as being the property of the Owner.

2.6. Close-out Activities

The Parties shall conduct the joint inspection/walkthrough and asset inventory thirty (30) days prior to the expiration of the Term, subject to Section VI. Schedule of Requirements Clause 23.

2.7. Demobilization

The Operator shall vacate the Malaya TPP by the end of the Demobilization Period.

3. Owner's Responsibilities

3.1. Possession of the Malaya TPP

1. On the Effective Date, the Owner shall transfer possession of the Malaya TPP and related facilities to the Operator, free of any charge, for the sole purpose of allowing the Operator to provide the Services.
2. For the duration of the Term, the Owner shall:
 - (i) Ensure that the Operator shall enjoy full, continuous and uninterrupted access to the Malaya TPP, at no cost to the Operator; provided, that the Operator shall enjoy the same kind of access during the Demobilization Period.
 - (ii) Obtain and maintain, at its own cost, any easements, covenants or permits which are necessary to secure the access referred to in item (i).
 - (iii) Make available such roads as are required for access to the site of the Malaya TPP.
 - (iv) Ensure that standby electricity will be provided as necessary for the Operation, Maintenance and Repair of the Malaya TPP within the operating parameters.
 - (v) Cause the maintenance and repair of the transmission lines and necessary interconnection facilities to ensure that at all times the Malaya TPP is capable of operating within the specification set out in Section VII. Technical Specifications Appendix 1 at no cost to the Operator.
 - (vi) Shoulder the cost of repair, adjustment, calibration or replacement of metering equipment found to be inaccurate.
 - (vii) Pay all real estate taxes and assessments, rates and other charges in respect of any land, building or structure (whether of a permanent or temporary nature) which the Operator may occupy, use or build for the purposes of or in relation to the

performance by the Operator of its obligations under the Contract.

3.2. Fuel

- a. The Owner shall, at its own cost, supply and deliver the Fuel to the Operator:
 - (i) at the Fuel Delivery Point, as the term is defined in **Section VII. Technical Specifications Appendix 4**;
 - (ii) according to the Specifications;
 - (iii) at no cost to the Operator; and
 - (iv) in time to be tested in accordance with Clause 3.2 (b) below and so as not to impair the Operation, Maintenance, Repair, and/or the general performance of the Malaya TPP.
- b. Fuel that is tested and accepted in accordance with the procedure in **Section VII. Technical Specifications Appendix 7** shall be considered as tested and accepted by the Operator under the Contract. If the delivered Fuel deviates from the Specifications, or the delivered Fuel cannot be tested in the time available before it was needed by the Operator for the provision of the Services (despite the Operator having taken prompt steps to arrange such testing), the Owner may instruct the Operator in writing to use the delivered Fuel, in which case (i) the Owner shall promptly indemnify the Operator against any cost, loss, liability or expense arising or suffered by the Operator as a result thereof, and (ii) the Emissions Limits shall not apply.
- c. If the Owner fails to supply Fuel of the quality or quantity, and at the times, required by the Operator, and such failure leads to an interruption of the operation of the Malaya TPP, the Operator shall be entitled to receive the Service Fee in full in accordance with **Section VI. Schedule of Requirements Clauses 5 and 6**.
- d. Start-up fuel (IFO and LFO) to be provided by the Owner shall be limited to two (2) start-up attempts per Unit and the allowable start-up fuel consumption as defined in **Section VII. Technical Specifications Appendix 1**. Any excess in the allowable start-up fuel consumption, without justifiable reason, shall be shouldered by the Operator. Excess amount of start-up fuel consumption, based on the average cost of fuel deliveries for the month (including taxes and duties), will be deducted in the Service Fee of the relevant Invoice Period.

3.3. Electricity to the Grid

The Owner shall ensure that the electrical output produced by the Malaya TPP pursuant to **Section VI. Schedule of Requirements Clause 4** is taken by the Grid.

3.4. Governmental Legal Requirements

- a. The Owner shall obtain and maintain in a timely manner all Permits, including all permits relating to environmental regulations, and/or authorizations for the import or export of parts, equipment and instruments in the manner contemplated herein as required under the laws of the Republic of the Philippines.
- b. The Owner shall provide copies of all Permits at any location required by the Operator free of charge to the Operator. If any environmental certificates or requirements contain conditions or restrictions which are unduly onerous, then the parties shall meet with a view to agree how such restrictions or conditions should be dealt with. In the absence of any such agreement (and during the periods of such discussions) the Owner shall compensate the Operator for increased costs or reduced returns arising therefrom.
- c. The Owner shall also assist the Operator in clearing through customs the spare parts, tools, instruments and other materials and equipment required by the Operator hereunder.
- d. To the extent that any obligation of the Operator might in any way be modified by such permits, licenses etc., subject to **Section VI. Schedule of Requirements Clause 11**, the compliance by the Operator with all such matters relating to the Malaya TPP shall be the responsibility of the Owner who shall bear all costs thereof, to enable the Operator to Operate, Maintain and Repair the Malaya TPP without impediment; provided, however, where such modifications of such permits, licenses etc. has been caused by the Operator's breach of a pertinent obligation hereunder, then the Operator shall be obliged to comply with the modification at its own cost.

3.5. Provision of Initial Stock, offices, workshops, stores, etc.

- a. The Owner shall make the Initial Stock, as listed in **Section VII. Technical Specifications**, Appendix 2, available to the Operator upon the Effective Date.

The price of the Initial Stock withdrawn by the Operator from the Owner's warehouse shall be for: (1) the Owner's account if such withdrawn Initial Stock is covered by an Amendment to Order, or (2) the Operator's account if such withdrawn Initial Stock is not covered by an Amendment to Order. The price of such withdrawn Initial Stock shall be (i) the price listed in **Section VII. Technical Specifications**

Appendix 2 or (ii) if the price is not listed in Section VII. Technical Specifications Appendix 2, the price agreed between the Owner and the Operator prior to the withdrawal of the Initial Stock from the Owner's warehouse. Where the price of such withdrawn Initial Stock is for the Operator's account, such price shall be deducted from amounts collectible by the Operator from the Owner for the succeeding Invoice Period.

- b. The Operator may bring in to the Malaya TPP and make available for its use the Operator's Stock, which shall remain the property of the Operator.
- c. The Owner shall allow the Operator to use for the duration of the Term, at no cost to the Operator:
 - (i) all PSALM-Owned General Plant Equipment, offices, storages, workshops, toilets, changing and locker rooms and additional spaces that are existing at the Malaya TPP on the Effective Date; and
 - (ii) the workshop equipment, special Plant tools, jib cranes and other maintenance and/or unloading areas and lifting gear contained within the Malaya TPP.

3.6. Maintenance and Start-Up Energy

- a. The Owner shall deliver standby electricity, except in the case of Grid black out or transmission line outage, and electricity for idle running consumption in periods where the Malaya TPP is out of operation due to maintenance, machinery breakdown or where the power generation may be shut down due to other factors. The standby electricity shall be delivered at the point of interconnection, at the high voltage side of the main transformer or start-up transformer.
- b. Standby electricity provided by the Owner in case of non-operation of all generating Plants of the Malaya TPP shall be subject to a 500 kWh per hour limit for the Malaya TPP. Said limit shall not include (i) electricity for starting up and shutting down and (ii) standby electricity used by the Operator for major inspection and boiler wet preservation. Said limit shall be applied beginning on the Effective Date. Any required standby electricity in excess of the limit shall be for the account of the Operator. In order to determine the amount of standby electricity used by the Operator, the Owner and the Operator shall take a photograph of the station-use meters in the Malaya TPP at noon or at such other time agreed between the Owner and the Operator on the twenty-fifth (25th) day of every month, provided, that if either Party shall not be present at the said meter at the agreed time, the abovementioned photograph shall be taken by the Party present and shall be binding on the Party absent.

4. Operating Procedures

4.1. Scheduling and Dispatching

- (a) The Operator shall generate all electrical energy, from the Minimum Load up to the Rated Capacity for each generating Plant stated in **Section VII. Technical Specifications Appendix 1**, as scheduled (a) by System Operator/NGCP in coordination with PSALM Electricity Trading Department/PEMC or (b) the Owner in any other situations or circumstances.
- (b) The Owner shall take all electrical energy generated by the Malaya TPP, in accordance with this Clause 4.
- (c) The Operator's duty as set forth herein shall be subject to (i) **Section VI. Schedule of Requirements Clauses 5, 6, 11, and 13**, (ii) the system load requirement; and (iii) the issuance of reasonable directives by the Owner or System Operations/NGCP, such load requirements and directives in accordance with Good Engineering Standards and Practices, the Manuals, the Grid Code and the recommendations of the equipment manufacturers.

4.2. General Safety

Both Parties and all persons employed by them in or about the Malaya TPP shall adhere in all respects to the provisions of all laws and orders, regulations and by-laws concerning safety made by any competent authority, having the force of law in the Philippines, that are applicable to the work or service being performed. Both Parties shall be bound by all matters concerning safety, health and welfare of persons working in the Malaya TPP, including established safety rules, permits to work and codes of practice specifically referred to in this Clause 4. Any Party whose employee contravened these requirements shall warn said employee, remove him from the Malaya TPP if necessary, and not employ him again in the Malaya TPP without good reason.

4.3. Planning of Outages

- (a) The Owner shall prepare annual, monthly and weekly systems operating plans and in doing so shall coordinate with the Operator to agree on planned outages for Maintenance. The Operator shall, within thirty (30) days from the Effective Date, submit a chart of planned outages for Maintenance and Repair for the twelve (12) month period after the Effective Date, such chart stipulating the activities to be undertaken, their duration (the "Planned Maintenance Schedule") and cost estimate. The first Planned Maintenance Schedule shall be established in accordance with the operating history of the

equipment and the recommendations of the equipment manufacturer and shall be updated and corrected every three (3) months.

(b) First Approval

The Owner shall have the right to review and comment upon the proposed Planned Maintenance Schedule. In the event that the Owner objects to the proposed Planned Maintenance Schedule it shall identify the activity and/or date which is to be rescheduled and shall offer alternative dates for the same. The Operator shall consider the Owner's objections and:

- (i) the Operator shall agree to the rescheduling as proposed by the Owner in the event that the rescheduling will have no effect on the safety, performance, reliability or life span of the Malaya TPP and will not result in the Operator incurring significant additional expenditure; or
- (ii) the Operator's proposed schedule shall prevail should the proposed rescheduling have the effect of impacting the safety, performance, reliability or life span of the Malaya TPP or part thereof or result in the Operator incurring significant additional expenditure, in which case the Operator shall notify the Owner accordingly.

(c) Second Approval

Notwithstanding the first approval under **Section VI. Schedule of Requirements** Clause 4.3(b), the Operator shall request the Owner for permission to implement the planned outage, indicating in said request the date and duration of planned outage, at least fourteen (14) days prior to the date of the planned outage. If the Owner disapproves the request:

- (i) the Owner's disapproval shall prevail and the planned outage shall be rescheduled if the disapproval will have no effect on the safety, performance, reliability or life span of the Malaya TPP and will not result in the Operator incurring significant additional expenditure;
- (ii) the Operator's proposed schedule shall prevail should the disapproval have the effect of impacting the safety, performance, reliability or life span of the Malaya TPP or part thereof or result in the Operator incurring significant additional expenditure, in which case the Operator shall notify the Owner accordingly.

4.4. Notice of Shutdown and Start-Up, Testing and Adjustments

- (a) Prior to shutting down the Malaya TPP or part thereof for scheduled Maintenance and/or Repair, the Operator's operation personnel shall notify the Owner and the System Operations/NGCP.
- (b) Prior to starting up the Malaya TPP or any part thereof following scheduled Maintenance and/or Repair, the Operator's operation personnel shall notify the Owner and the System Operations/NGCP of the time when the Malaya TPP or part thereof is scheduled to return to service.
- (c) Subject to **Section VI. Schedule of Requirements** Clause 4.3 the notices to be given by the Operator in respect of taking the Malaya TPP or a part thereof out of service or returning it to service shall be provided to the Owner one (1) hour prior to the time the requested change is anticipated to occur.
- (d) Upon completion of the Maintenance and Repair activity, the Operator shall perform the requisite adjustments and tests, if any, to establish that (i) the work has been completed successfully and/or (ii) the Malaya TPP or any part thereof is performing normally, having regard to the then existing operating conditions and the age of the Malaya TPP or part thereof. The Operator may request the Owner to take the electrical energy generated during said tests; provided, that the electrical energy generated during such tests should not result in Grid disturbances, except where such tests, by its very nature, create allowable Grid disturbances.

4.5. Inspection and Quality Surveillance

4.5.1 Owner / Third Party Facility Inspection

- (a) The Owner shall pay for any and all costs incurred by the Owner or third parties in conducting inspections of the Malaya TPP or any part thereof whether such third parties are agents and/or employees of the Owner or any other governmental agency or otherwise.
- (b) Such inspection of the Malaya TPP should be planned so as to cause no disruption in the Operation, Maintenance and/or Repairs.

4.5.2 Statutory Tests

In the event that tests must be made by a statutory body pursuant to any pertinent law, the Operator upon being given timely notice to prepare the Malaya TPP or part thereof for testing and/or inspection shall do so and assist the statutory body to perform the same. The Owner may attend such test and/or inspection at its own

cost at the time agreed between the Operator and the statutory body. Should the Owner not attend such test and/or inspection, it shall be carried out in the absence of the Owner and the Operator shall inform the Owner of the result. Costs incurred by the statutory body and/or the Owner in preparing, participating in and/or conducting such tests shall be borne by the Owner and/or the statutory body. Such inspection of the Malaya TPP should be planned so as not to cause any disruption in the Operation, Maintenance and/or Repairs.

If such statutory test or the preparation for the same results in a shutdown of the Malaya TPP or part thereof or a reduction of energy delivery, such statutory test shall be treated as a Curtailment of Malaya TPP Operation by the Owner pursuant to **Section VI. Schedule of Requirements** Clause 12.2. In the event that the Operator through its sole negligence necessitates such statutory testing, then it shall pay the reasonable cost of such testing and if such statutory test or the preparation for the same results in a shutdown of the Malaya TPP or part thereof or a reduction of energy delivery such statutory test shall be treated as a Curtailment of Malaya TPP Operation by the Operator pursuant to **Section VI. Schedule of Requirements** Clause 12.1.

4.6. Capacity Test

The Owner may request the Operator to conduct capacity test prior to the end of the Term to demonstrate that the Malaya TPP is capable of operating at its dependable capacity established at the time of turnover by the Owner.

4.7. Protection Relays

There has been installed in the Malaya TPP a series of protection relays that are deemed to be sufficient under normal and reasonably foreseeable abnormal conditions for the protection of the Malaya TPP, the Grid and its customers against disturbances, overload, lightning, surges, short circuits, earth faults and other similar phenomena however caused. The Operator shall not be responsible for any damage to the Malaya TPP if such protection relays prove to be insufficient to protect the Malaya TPP or the Grid. However, the Operator shall be responsible for any damage to the Malaya TPP if such protection relays failed to operate by reason of the Operator's fault or negligence.

4.8. Protection Relays and Integrity Loss

The Operator shall operate the Malaya TPP with all of its protective relays in service whenever the Complex is connected to or is in parallel with the Grid. Any deviation shall only be for brief periods of emergency or maintenance and repair and shall be by mutual agreement.

If, at any time, reasonable doubt exists as to the integrity of the protective relays which could jeopardize and be hazardous to the electrical system and/or Malaya TPP, the party responsible for such protective relay shall demonstrate to the satisfaction of the other party, the correct calibration and operation of the equipment in question. Either party shall have the right to demand that the other party tests and calibrates its protective relays. In the event that the test and calibration demonstrates that any protective relay is defective or is malfunctioning, or is otherwise outside the normal working parameters, the party responsible for such protective relay shall pay the reasonable direct cost of such testing and calibration as well as the cost of repairing the same. In the event that the test and calibration demonstrates that any protective relays are functioning properly, the party which requested such test and calibration shall bear the reasonable direct cost of such test and calibration.

A party's forbearance in requesting the other party to test or calibrate or otherwise inspect its relays or any other protective equipment shall not relieve the latter party of the obligations to fulfill the requirements of this Agreement.

5. Fees

The Owner shall pay all amounts due to the Operator under the Contract, including but not limited to those remuneration and reimbursement listed below:

- (a) Service Fee,
- (b) Operating Fee, and
- (c) Amendment to Order Price

5.1. Service Fee

- (a) The Service Fee payable for each Invoice Period shall be in accordance with **Section VI. Schedule of Requirements Clause 6**, less the Aggregate Fee Reduction Amount.
- (b) The Fee Reduction Amount, as to each Event, shall be computed according to the following formula:

$$FRA = (UE/RE) \times (TUE) \times (SFA/TUIP) \times (RCU/RCT)$$

Where for purposes of this Clause 5.1(b):

FRA is the Fee Reduction Amount.

UE is the difference between RE and DE.

RE is the capacity of the relevant generating Plant of the Malaya TPP requested by the System Operations/NGCP or the Owner in

accordance with **Section VI. Schedule of Requirements Clause 4.1(a)** for the hour when the Event commenced.

DE is the capacity of the relevant generating Plant of the Malaya TPP delivered by the Operator in accordance with **Section VI. Schedule of Requirements Clause 4.1(a)** upon the commencement of the Event.

TU (or Time Unit) is a continuous twenty-four (24)-hour period.

TUE is the number of TUs corresponding to the duration of the Event; provided, that in computing the TUE, a fraction of a TU shall not be considered. By way of illustration: (1) if the duration of the Event is more than 24 hours but did not exceed 48 hours, then the TUE shall be "1"; and (2) if the duration of the Event is more than 48 hours but did not exceed 72 hours, then the TUE shall be "2".

TUIP is the number of TUs during the relevant Invoice Period.

SFA (or Service Fee Amount) is the monthly Service Fee.

RCU is the rated capacity of the relevant generating Plant of the Malaya TPP as stated in **Section VII. Technical Specifications Appendix 1**.

RCT is the rated capacity of the Malaya TPP as stated in **Section VII. Technical Specifications Appendix 1**.

The Operator shall notify the System Operations/NGCP and the Owner of changes in the capacity of the relevant generating Plant of the Malaya TPP.

- (c) In case of termination of the Contract for cause under **Section VI. Schedule of Requirements Clause 14**, the Operator shall be entitled to the full Service Fee for a particular Invoice Period if it shall have provided the Services in accordance with the terms and conditions of the Contract for ten (10) or more days in said Invoice Period. For the avoidance of doubt, the Operator shall not be entitled to any Service Fee for a particular Invoice Period if it shall have failed to provide the Services in accordance with the terms and conditions of the Contract for at least ten (10) days in said Invoice Period.

5.2. Operating Fee

- (a) The Operating Fee payable for each Invoice Period shall be calculated in accordance with the following formula:

$$\text{Operating Fee} = \text{Operating Fee Rate} \times \text{Operating Hours per Plant}$$

- (b) The number of Operating Hours shall be determined based on the summary daily operating report submitted by Operator pursuant to **Section VI. Schedule of Requirements Clause 2.3**, subject to verification by the Owner based on information obtained from the System Operations/NGCP. If there is a difference in the number of Operating Hours based on the summary daily operating report and that based on information obtained from the System Operations/NGCP, the Parties shall endeavor to agree on the reconciliation of the difference. If the Parties fail to agree on such

reconciliation, the number of Operating Hours based on information obtained from the System Operations/NGCP shall prevail.

- (c) The Operating Fee Rate shall be fixed throughout the Term. The Operating Fee shall be payable in Philippine Pesos in accordance with **Section VI. Schedule of Requirements Clause 6**.

5.3. Amendment to Order Price

The Owner shall pay to the Operator, in accordance with **Section VI. Schedule of Requirements Clause 6**, the Amendment to Order Price corresponding to each Amendment to Order issued in accordance with **Section VI. Schedule of Requirements Clause 11**.

6. Payment and Taxes

- (a) All sums payable by the Owner to the Operator shall be in Philippine Pesos and shall, at Operator's discretion, be paid to the Operator's local bank account or handed over to Operator's designated collecting agent.
- (b) The Operator shall submit all invoices to the Owner on or before the last day of the month on which falls the last day of the Invoice Period.
- (c) The Service Fee and the Operating Fee for each Invoice Period shall be payable on or before the last day of the month following the said Invoice Period. Should the due date of payment fall on a non-banking day then the due date shall be on the next banking day.
- (d) Amendment to Order Prices shall be paid by the Owner in accordance with the terms of the relevant Amendment to Order. Costs incurred by the Operator under **Section VI. Schedule of Requirements Clause 11.2(d)** shall be paid by the Owner within thirty (30) days of receipt by the Owner of the Operator's invoice and complete supporting documents, including at least three (3) quotations from reputable suppliers, for such costs. Should the due date of payment fall on a day which is a non-banking day then the due date shall be made on the next banking day.
- (e) All direct or indirect taxes, levies, duties including but not limited to customs duties, and charges shall be for the account of the Operator.

6.1. Invoicing Procedure

- a) Invoice documentation:
All invoices submitted by either Party to the other Party shall be accompanied by appropriate documentary evidence in the form agreed by the Parties.
- b) Invoicing of Service Fees and Operating Fees:

- (i) The invoice for the Service Fee, and the Operating Fee for each Invoice Period and other amounts due to be compensated to the Operator shall be delivered by the Operator to the Owner on or before the last day of the month on which falls the last day of the said Invoice Period.
- (ii) If the Owner disputes the amount specified in any invoice, it shall so inform the Operator within seven (7) days of receipt of such invoice; if the dispute is not resolved by the due date the Owner shall pay the undisputed amount on or before such date and the disputed amount shall be resolved within fourteen (14) days of the due date for such invoice and any sum paid to the Operator shall be paid together with interest pursuant to Section VI. Schedule of Requirements Clause 6.2 from the due date of such invoice. If the Operator delivers any invoice hereunder later than the time or date provided for herein, the Owner shall nevertheless be obliged to pay the relevant invoice in accordance with the provisions hereof, but the time for such payment shall run from the date of delivery of the relevant invoice.

6.2. Interest on Delayed Payments

- a) If the Owner fails to pay any amount under the Contract when such amount is due, the Operator may charge interest on the delayed payment at the rate of two percent (2%) over the T-Bill Rate.

The interest shall be paid within thirty (30) days upon receipt of an invoice for the said interest.

7. Performance Security

- a) The Operator shall deliver the Performance Security within ten (10) calendar days from receipt of the Notice of Award in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(c) Surety bond callable upon	Thirty percent (30%)

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security; and/or	
(d) Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

The Operator shall obtain the Performance Security at its own expense. The Performance Security shall remain valid and effective until the later of:

- i. sixty (60) days after the expiration of the Term; or
 - ii. issuance by the Procuring Entity of the Certificate of Completion and Acceptance.
- b) The Owner may, as its exclusive remedy, immediately draw the full amount of the Performance Security upon the occurrence of any of the following Drawing Events:
- i. If the Operator Abandons the Malaya TPP;
 - ii. If the Malaya TPP or any of its generating Plants suffers a prolonged and continuous forced outage due to the Operator's fault or negligence for thirty (30) consecutive calendar days and the Operator is not diligently undertaking Maintenance and Repair; or
 - iii. Any breach of the Operator of its obligations under this Contract.

8. Liability and Indemnity

8.1. Liability of the Operator

- (a) The Operator's liability under this Contract shall be as provided by the laws of the Republic of the Philippines, subject to additional provisions, if any, set forth in this Contract.
- (b) The aggregate liability of the Operator to the Owner shall not exceed the total Contract Price, except (i) in cases of criminal negligence or willful misconduct; and/or (ii) in cases of repair or replacement of damaged equipment where the damage is due to Operator's fault.
- (c) Notwithstanding any provision in the Contract to the contrary, the Operator shall not, whether on the basis of law, contract, or tort, be liable to third parties for any consequential, incidental or special loss, such as but not limited to loss of profit, revenues or interest,

cost of capital or cost of replacement power, resulting from the Operator's action or inaction in respect of its obligations under the Contract.

8.2. Indemnity

- (a) The Owner shall indemnify and hold the Operator, its officers and employees harmless against any claims of any third party who directly or indirectly suffers as a result of (i) an interruption or surge of electricity supply arising out of or in connection with the Contract, not due to the Operator's fault or negligence, including curtailment of operation by the Owner under **Section VI. Schedule of Requirements** Clause 12.2, and (ii) any action or omission of the Operator or its officers or employees in connection with (i) above. The Owner shall indemnify the Operator against any loss, cost or expense resulting from damage to the Malaya TPP caused by or resulting from any interruption or disruption or surge of electricity along any transmission line or system or interconnection facility, unless and to the extent that such loss, cost or expense occurred due to the Operator's fault or negligence in the operation of any safety and protective equipment installed in the Malaya TPP.
- (b) (i) Subject to **Section VI. Schedule of Requirements** Clause 8.2(a), and without prejudice to **Section VI. Schedule of Requirements** Clause 8.2(d)(iii), either Party shall indemnify, defend, and hold harmless the other, its directors, officers, employees and agents (including but not limited to affiliates and contractors and their employees) from and against all liabilities, damages, losses, penalties, claims, demands, suits, costs, expenses (including reasonable attorney's fees and expenses) and proceedings of any nature whatsoever for (i) bodily injury (including death), or (ii) property damage (but not economic loss or any other consequential damage) that result from the performance by it or on its behalf of its obligations under the Contract.
- (ii) If such bodily injury or property damage as described in **Section VI. Schedule of Requirements** Clause 8.2(a) resulted from the Operator's possession, operation, use, maintenance, repair, reconditioning, return or other application or disposition of (i) the Malaya TPP, (ii) any fuel, equipment, materials or supplies used therein, or (iii) waste products, emissions or other by-products of items (i) and (ii) above, the Owner shall indemnify, defend, and hold harmless the Operator, its directors, officers, employees and agents (including but not limited to affiliates and contractors and their employees) from and against the same, except to the extent that such injury and/or any damage is attributable to the negligent or intentional act or omission of the Operator or its directors, officers, employees, representatives or agents.

- (iii) However, in the event that such injury or damage results from the joint or concurrent negligent or intentional act or omission of the Parties, each Party shall be liable under this indemnification provision in proportion to its relative degree of fault.
 - (iv) With respect to any and all claims, liabilities, costs, damages and expenses of every kind and nature in for sickness, injury or death of any person employed by the Either Party or its subsidiary or any of its subcontractors arising during or as a result of its performance of its obligations under the Contract, each Party will be responsible for its own employees.
- (c) Notwithstanding the foregoing, machinery breakdown, as normally defined in a machinery breakdown insurance policy, shall be presumed to be the fault of the Operator, unless the Operator is able to show that the machinery breakdown was not due to the Operator's fault or negligence. In the event that the damage gives rise to a claim under the Machinery Breakdown insurance and the proceeds of such claim are insufficient to pay for the necessary repairs, the difference between the insurance proceeds and the cost of repair or reinstatement of the Malaya TPP shall be borne by:
 - (i) the Operator if the machinery breakdown was due to the Operator's fault or negligence, or
 - (ii) the Owner if the machinery breakdown was not due to the Operator's fault or negligence.
- (d) Environmental Indemnity
 - (i) The Owner shall indemnify and immediately hold the Operator harmless in respect of any claim of whatever kind by any third party or government agency (including, but not limited to, any claim which may result in administrative liability) which alleges that the Malaya TPP and/or a part thereof has violated any environmental law or has caused or has contributed to any environmental pollution whether in the lake, land or air or that the Malaya TPP on and/or the site on which it is built and/or an adjacent or proximate site is polluted, provided, that if the Operator permits the emission levels from the Malaya TPP to exceed the Emissions Limits, except as set forth in **Section VI. Schedule of Requirements** Clause 2.1(a) and Clause 3.2 (b), the Operator shall be liable to reimburse the Owner for any damages, costs or expenses incurred by the Owner that are directly attributable to any of the above instances.
 - (ii) In the event that the Operator discovers any toxic, radioactive or noxious substance at or proximate to the Malaya TPP which it has not discharged or introduced, it shall either: (i) request the Owner to immediately remove the same; or (ii) if in the interests of its employees, the Operator decides to remove the

same or cause it to be removed, subject to prior consent of the Owner, which consent shall not be unreasonably withheld, the Owner shall fully reimburse such removal costs to the Operator.

- (iii) The Owner shall also indemnify the Operator against any personal injury claims which arise or allegedly arise by virtue of toxic, radioactive or noxious substances being at, on or under the Malaya TPP unless the Operator has introduced the same during the Term.
- (iv) Notwithstanding anything contained to the contrary in the Contract, if any Fuel, Lubricants or ash waste from the Malaya TPP are released into the surrounding water or other environment, the Operator shall be liable for all costs, damages or claims arising therefrom subject to provisions on environmental indemnity; Provided, that the Operator shall have no liability for any such release that was caused by the Owner or by a third party not under the control of the Operator.
- (v) Any period of Curtailment of Malaya TPP Operation due to any environmental incident shall be deemed:
 - 1) a Curtailment of Malaya TPP Operation by the Operator pursuant to **Section VI. Schedule of Requirements Clause 12.1(b)** if the Operator is responsible for the environmental incident; or
 - 2) a Curtailment of Malaya TPP Operation by the Owner pursuant to **Section VI. Schedule of Requirements Clause 12.2** if the Owner is responsible for the environmental incident.
- (vi) Any duty on the part of the Operator under **Section VI. Schedule of Requirements Clause 8.2(d)(i)** shall end on the Expiration Date, unless, prior to the Expiration Date, the Owner has instituted formal proceedings against the Operator on the basis that the Operator has breached its responsibilities under **Section VI. Schedule of Requirements Clause 2.1(a)**, in which case, the Operator's obligations under **Section VI. Schedule of Requirements Clause 8.2(d)(i)** shall survive the termination of the Contract until such claim is resolved.
- (vii) The Owner's indemnity of the Operator as set forth in **Section VI. Schedule of Requirements Clause 8.2(d)(ii)** herein shall survive termination of the Contract.

9. Assignment

The Operator shall not assign its rights and/or sub-contract its obligations under the Contract, other than its rights to receive payments from the Owner, without the prior written consent of the Owner, which consent shall not be unreasonably withheld or delayed; provided, however, the Operator may assign or subcontract any of its obligations under the Contract to any entity that controls, is controlled by, or is under common control with, the Operator.

10. Insurance

The following insurance cover shall be made available during the Term:

10.1. Owner's Insurance

- (a) The Owner shall provide and maintain at its own expense and to the extent required, an "Industrial All Risk" (including machinery breakdown) insurance coverage written with secure and reputable entities authorized to insure risks in the Philippines providing a thirty (30)-day prior written notification of cancellation, non-renewal or material modification. Such Industrial All Risk insurance shall cover physical damage insurance to the full replacement value of (i) the Malaya TPP, including all equipment, machinery and spare parts incorporated therein or ancillary thereto, and (ii) Delivered Fuel.
- (b) The Owner shall provide certificates of such insurance and/or a copy of the relevant parts of the policies to the Operator.
- (c) The Operator shall be named as joint insured on the insurance policies to be maintained by the Owner. Such policies shall contain (i) a waiver of subrogation rights against the Operator and its affiliate companies, subcontractors, employees and agents and (ii) a provision requiring the insurer to provide the Operator with thirty (30) days' written notice prior to cancelling any such policy.
- (d) The Owner shall be obliged to apply the proceeds of any claims under any of the insurance policies taken out pursuant to **Section VI. Schedule of Requirements** Clause 10.1 with respect to damage or other casualty to the Malaya TPP, to the extent necessary, to repair or restore the Malaya TPP to its previous condition or to rebuild the Malaya TPP completely and the Owner shall be obliged to reimburse the Operator for all costs of repair or restoration or replacement of the Malaya TPP (except as specified in **Section VI. Schedule of Requirements** Clause 10.4(a) during the Term.
- (e) Full Service Fees and Operating Fees, shall be payable during any such period of repair or restoration or the Malaya TPP, except

where the relevant repair or restoration is required as a result of fault or negligence of the Operator, in which case no Service Fees or Operating Fees, shall be payable during the period of such repair or restoration.

- (f) If the Owner shall have failed to obtain and maintain the insurance referred to in this Clause 10.1, then the Operator shall not be liable for any loss or damage which should have been covered by said insurance.

10.2. Operator's Insurance

The Operator shall provide and maintain at its own expense and to the extent required, the following insurance coverage written with secure and reputable entities authorized to insure risks in the Philippines providing a thirty (30)-day prior written notification of cancellation, non-renewal or material modification:

- (a) Workman's compensation insurance required and employer's liability coverage, as required by law;
- (b) Vehicle liability insurance, required by law; and
- (c) Comprehensive general liability insurance.

Certificates of relevant insurance and/or a copy of the relevant parts of the policies shall be provided to Owner.

The Owner shall be named as joint insured on the insurance policies in item (c) above which are to be maintained by the Operator. Such policies shall contain (i) a waiver of subrogation rights against the Owner, employees and agents and (ii) a provision requiring the insurer to provide the Owner with thirty (30) day's written notice prior to canceling any such policy.

10.3. Deductibles

Each Party shall be responsible for the deductibles under the insurance policies taken out by it in accordance with **Section VI. Schedule of Requirements** Clauses 10.1 and 10.2, provided, that under no circumstances shall the Operator be liable to pay the Owner any amount in relation to any deductible arising under any consequential loss claim made by the Owner under any policy taken out under **Section VI. Schedule of Requirements** Clause 10.2(a).

10.4. Claims

- (a) In case of loss or damage to the Malaya TPP which gives rise to a claim under the insurance policies taken out under **Section VI. Schedule of Requirements** Clause 10.1, the Operator may apply

the proceeds received or receivable under such insurance policies to repair or restore the Malaya TPP to their previous condition or to rebuild the Malaya TPP completely. In case of such loss or damage, the Operator shall notify the relevant insurance company in order to obtain a damage survey as soon as possible. After such damage survey, the Operator shall promptly commence the necessary repairs.

- (b) In case of loss or damage to the Malaya TPP which does not give rise to a claim under the insurance policies taken out under **Section VI. Schedule of Requirements** Clause 10.1, the following rules shall apply:
 - (i) If the loss or damage was due to the Operator's fault or negligence, then the Operator shall repair the Malaya TPP. The costs of such repair shall be for the Operator's account.
 - (ii) If the loss or damage was not due to the Operator's fault or negligence, then the Operator shall propose the issuance of an Amendment to Order under **Section VI. Schedule of Requirements** Clause 11.1. The costs of such repair shall be for the Owner's account.

11. Amendment to Order

11.1. Amendment to Order for Additional Services

Either Party may propose the issuance by the Owner of an Amendment to Order. The proposal shall be in writing and shall specify the scope and details of the required Additional Services, using Appendix 12: Amendment to Order Form of Section VII. Technical Specifications.

The Owner shall give its approval within five (5) working days upon receipt of Amendment to Order request provided all relevant and necessary documents have been submitted by the Operator.

If the Owner requires prior inspection by its authorized representative and additional requirements or documents from the Operator to justify the proposed Amendment to Order, the Owner shall give its comments within five (5) working days upon evaluation of such documents or inspection.

If the comments are not accepted, then the Parties shall meet within five (5) working days to discuss the same. Thereafter, if the Parties agree on the terms of the Amendment to Order, then the Owner shall issue an Amendment to Order addressed to the Operator within five (5) working days from the date of agreement.

Amounts due under this Clause 11.1 shall be invoiced and paid pursuant to **Section VI. Schedule of Requirements** Clause 6.

11.2. Amendment to Order for Change of Circumstances

- (a) Change of Circumstances shall include but not be limited to:
- (i) any change of law or interpretation or application of a law in the Republic of the Philippines or any regional or municipal authority thereof,
 - (i) any approvals, consents, registration, exemptions, laws or regulations (including any official interpretation thereof which the Operator has relied upon in entering into the Contract) in force at such date being amended, modified or repealed, whereby the Operator's economic return (net of tax or other imposition, including, without limitation any withholding or remittance tax on the payment of dividends) on its investment is materially reduced, prejudiced or otherwise adversely affected,
 - (ii) significant change in Good Engineering Standards and Practices applicable in the Republic of the Philippines,
 - (iii) changes in the Operating environment such as but not limited to, air and/or water quality,
 - (iv) change of Fuel quality outside the Specifications,
 - (v) a change in the condition of the Grid requiring a modification in the Malaya TPP, or
 - (vi) any deviation in the scope of the Services requested by the Owner.
- (b) If an event shall occur which, in either Party's reasonable judgment, constitutes a Change of Circumstances, then such Party affected shall give notice to the other Party together with an Amendment to Order proposal detailing the impact that such change has or may have on the Malaya TPP's performance and any reasonable costs which have arisen, will arise or may arise in connection with the Change of Circumstances. The Parties shall meet and agree within fifteen (15) days (i) as to whether or not such event constitutes a Change of Circumstances and (ii) on the terms of the Amendment to Order. If no agreement is reached on items (i) and (ii) above within said 15-day period, either Party shall have the right to submit the matter for dispute resolution in accordance with **Section VI. Schedule of Requirements** Clause 20.
- (c) If the Parties agree that such event constitutes a Change of Circumstances and on the terms of the Amendment to Order, then the Owner shall issue an Amendment to Order addressed to the Operator within five (5) working days from the date of agreement.

- (d) If an event which, in the Operator's reasonable judgment, constitutes a Change of Circumstances shall occur, then the Operator shall continue to Operate, Maintain and Repair the Malaya TPP, unless the Additional Services in the proposed Amendment to Order are required for the safe or legal Operation, Maintenance and Repair of the Malaya TPP. The obligation to Operate, Maintain and Repair the Malaya TPP under this Clause 11.2(d) shall last only until the earlier of:
 - a. the date when an Amendment to Order is issued, or
 - b. where a matter is submitted for dispute resolution in accordance with Section VI. Schedule of Requirements Clause 11.2(b), the earlier of (i) the termination of the Contract or expiration of the Term under Section VI. Schedule of Requirements Clause 14 and 15, and (ii) the finality of the judgment referred to in Section VI. Schedule of Requirements Clause 20.

11.3. Operator Changes

The Operator shall have the right but not the obligation to effect changes in the Malaya TPP or parts thereof if such changes do not negatively impact the performance or the life span of the Malaya TPP or jeopardize permits and licenses, provided that it shall obtain the approval of the Owner, which approval shall not to be unreasonably withheld.

12. Curtailment

12.1. Curtailment of Malaya TPP Operation by Operator

The Operator shall have the right to Curtail Malaya TPP Operation or reduce energy delivery in the following instances:

- (a) In case of emergencies in order to avoid any potential damage to the Malaya TPP or other property or to prevent possible injury to any person. For the avoidance of doubt, this item (a) shall apply to the Curtailment of Malaya TPP Operation or reduction of energy delivery by reason of the activation of protection relays of the Malaya TPP.
- (b) When, in the reasonable judgment of the Operator, the Operation of the Malaya TPP in accordance with the Contract shall expose the Operator, its officers or its employees to criminal liability with respect to the air emissions of the Malaya TPP.

The Operator shall immediately notify the Owner after the occurrence of such Curtailment of Malaya TPP Operation or reduction of energy delivery, giving the reason, dates and details of such curtailment or reduction.

The Operator shall be entitled to receive the Service Fee corresponding to the period of Curtailment of Malaya TPP Operation or reduction of energy delivery under this Clause 12.1.

12.2. Curtailment of Malaya TPP Operation by Owner

In the event that the Owner reasonably determines and gives notice to the Operator that a condition exists, which in the reasonable judgment of the Owner will require Curtailment of Malaya TPP Operation or which requires a change in electricity deliveries, the Owner shall have the right to demand the Operator to suspend or reduce energy deliveries and the Operator shall immediately comply with such request. In the event that such notice was given verbally from the System Operations/NGCP, the Owner shall confirm such curtailment in writing. The Operator shall be entitled to the full Service Fee during the period of Curtailment of Malaya TPP Operation under this Clause 12.2.

12.3. Unscheduled Curtailment of Malaya TPP Operation

If the Operator reasonably determines that there is a need to suspend or reduce energy deliveries for any reason other than (1) for the purpose of any scheduled Maintenance and Repair activity which is in progress, or (2) for emergencies as described in **Section VI. Schedule of Requirements** Clause 12.1, the Operator shall provide to the Owner notice in the form attached as **Section VII. Technical Specifications** Appendix 5. The Owner shall immediately either:

- (a) conform with the notice, in which case the Operator shall take steps to rectify the matter causing said suspension or reduction; or
- (b) notify the Operator that it wishes to override such notice, in which case the Operator shall use best reasonable efforts to estimate the consequences of such a decision to override and advise the Owner of the same and if the Owner nevertheless implements the decision to override, the Owner shall indemnify the Operator against any and all loss or damage to third parties and/or to the Operator and all reasonable additional costs pursuant to the provisions of **Section VI. Schedule of Requirements** Clause 11 which result from non-conformance of the Owner with said notice.

The Operator shall be entitled to receive the Service Fee corresponding to the period of suspension or reduction of energy delivery under this Clause 12.3. if the suspension or reduction in energy delivery is not due to the fault or negligence of the Operator.

In the event that the suspension or reduction in energy delivery under this Clause 12.3 is due to the Operator's fault or negligence, the Service Fee shall be reduced in accordance with **Section VI. Schedule of Requirements** Clause 5.1 (b).

13. Force Majeure

13.1. Performance Excused by Force Majeure

The Operator's non-performance of any obligation hereunder shall be excused if the Operator is prevented or delayed or impeded in performing any of its obligations under the Contract by reason of a Force Majeure event. The Operator shall offer reasonable evidence of the Force Majeure event and its effects on the Operator's performance.

13.2. Force Majeure Events

Force Majeure shall include, but not be limited to, the following:

- (a) hostilities, belligerence, blockade, revolution, insurrection, terrorism or guerrilla activities;
- (b) riot, public disorder, expropriation, requisition, confiscation, nationalization or sabotage;
- (c) extortion, abduction or life-threatening acts;
- (d) earthquakes, hurricanes, tidal waves, typhoons, or violent storms, floods, volcano eruption, volcano ash, fire, lightning, lahar, avalanche, landslide, or other natural physical disaster and other acts of God;
- (e) contagious and other life-threatening diseases;
- (f) strike or lock-out or other industrial action whether at the Malaya TPP (provided the Operator shall use best reasonable efforts to avoid, mitigate the effects of or end such a strike or lock-out), in the locality of the Malaya TPP or elsewhere in the Philippines or abroad, including industry-wide strikes and general strikes by workers or employees;
- (g) system faults or transmission line outages preventing the Operator from delivering power to the Grid.

The Operator shall not be precluded from relying on a Force Majeure event merely by virtue of the fact that an event or events of a similar nature occurred or were occurring at a time the parties entered into the Contract.

The mere shortage of labor, materials or utilities shall not constitute Force Majeure unless caused by circumstances which are themselves Force Majeure.

13.3. Force Majeure Notice

The Operator shall notify the Owner of circumstances constituting Force Majeure at the earliest opportunity and specify the obligation, the performance of which is thereby delayed or prevented or otherwise affected and Operator shall thereupon pursuant to **Section VI. Schedule of Requirements** Clause 13.1 be excused from the performance or punctual performance, as the case may be, of such obligation for so long as the Force Majeure event continues or its effects continue.

13.4. Force Majeure Effects and Costs

- (a) Pursuant to a Force Majeure event occurring in the Philippines (other than a strike at the Malaya TPP) which impacts the ability of the Malaya TPP or a part thereof to properly generate electrical energy or prevents the Operator from performing some or all of its duties set forth in the Contract, the Operator shall be entitled to the Service Fee for the Invoice Periods covering the time when the Force Majeure event or its effects prevent or impede the Operator to perform its obligation under the Contract, provided, that if the Force Majeure event continues for thirty (30) days, beginning on the thirtieth (30th) day either Party shall be entitled to terminate the Contract with at least thirty-day written notice and such termination shall be treated as a termination pursuant to **Section VI. Schedule of Requirements** Clause 13.5.
- (b) In the event that a strike at the Malaya TPP occurs, the Owner and the Operator shall immediately meet and discuss how the effect of such strike can be terminated and/or remedied. The Operator shall be entitled to only sixty-five percent (65%) of the Service Fee for the Invoice Periods covering the duration of a strike at the Malaya TPP as contemplated in **Section VI. Schedule of Requirements** Clause 13.2(f), provided, that (i) no Service Fee shall be payable by the Owner during the first fifteen (15) days of such strikes in the Malaya TPP; (ii) if the Force Majeure event continues for thirty (30) days, beginning the thirtieth (30th) day either Party may terminate the Contract with at least thirty-day written notice and such termination shall be treated as a termination pursuant to **Section VI. Schedule of Requirements** Clause 13.5.
- (c) In the event that any of the following Force Majeure events take place outside of the Republic of the Philippines and impact the Operator's performance of its duties hereunder, the Operator shall receive only sixty-five percent (65%) of the Service Fee for the Invoice Periods covering the time when the Force Majeure event or its effects prevent or impede the Operator to perform its obligation under the Contract. The aforementioned events shall be limited to hostilities, belligerence, blockade, revolution, insurrection, terrorism or guerrilla activities, riot, public disorder, expropriation,

requisition, confiscation, nationalization or sabotage, extortion, abduction or life-threatening acts and contagious and other life-threatening diseases. In the event that any such Force Majeure event continues for thirty (30) days, then either Party may terminate the Contract with at least thirty-day written notice and such termination shall be treated as a termination, pursuant to **Section VI. Schedule of Requirements Clause 13.5**, unless the Owner agrees to pay one hundred percent (100%) of the Service Fee for the duration of the Force Majeure event and its effects, in which case the Operator shall not have the right to terminate the Contract.

- (d) In the event that any of the following Force Majeure events take place outside of the Republic of the Philippines and impact the Operator's performance of its duties hereunder, the Operator shall receive only sixty-five percent (65%) of the Service Fee for the Invoice Periods covering the time when the Force Majeure event or its effects prevent or impede the Operator to perform its obligation under the Contract. The aforementioned events shall be limited to earthquakes, hurricanes, tidal waves, typhoons, or violent storms, floods, volcano eruption, volcano ash, fire, lightning, lahar, avalanche, landslide, or other natural physical disaster. In the event that any such Force Majeure event continues for thirty (30) days, then either Party may terminate the Contract with at least thirty-day written notice and such termination shall be treated as a termination, pursuant to **Section VI. Schedule of Requirements Clause 13.5**, unless the Owner agrees to pay one hundred percent (100%) of the Service Fee for the duration of the Force Majeure event and its effects, in which case the Operator shall not have the right to terminate the Contract.
- (e) If the Malaya TPP or parts thereof are damaged or destroyed by a Force Majeure event, the Owner will bear the cost of repair or replacement. The Owner shall decide whether or not to undertake such repair or replacement.
 - (i) If all generating Plants of the Malaya TPP are damaged and the Owner shall decide not to undertake such repair or replacement, then either Party may terminate the Contract with immediate effect and such termination shall be treated as a termination pursuant to **Section VI. Schedule of Requirements Clause 13.5**.
 - (ii) If the Owner shall decide to undertake such repair or replacement, then the provisions of **Section VI. Schedule of Requirements Clause 11.1** shall apply.
- (f) The adjustment of the Service Fee due to a Force Majeure event shall be applied as follows:

- (i) In the event that the Malaya TPP or any generating Plant thereof was already in forced outage, that is to say, damaged and undergoing repair, not due to the Operator's fault or negligence at the time when the Force Majeure event commenced, then the Operator shall be entitled to the Service Fee.
- (ii) In the event that the Malaya TPP or any generating Plant thereof was already in forced outage, that is to say, damaged and undergoing repair, due to the Operator's fault or negligence at the time when the Force Majeure event commenced, then the Operator shall be entitled to the Service Fee from the time that the Malaya TPP or the generating Plant is ready to return to Operation as scheduled. The Owner may, at its option, verify the Plant's availability to operate as scheduled.
- In the event that only one of the generating Plants of the Malaya TPP is affected by such Force Majeure event, the Service Fee shall be reduced only with respect to the affected generating Plant.

For the avoidance of doubt, the following formula shall be applied for purposes of this item 13.4 (f)(ii):

$$ASF = (MSF/BP) \times (RCU/RCT) \times (BP-FOP)$$

Where for purposes of this item 13.4 (f)(ii):

ASF is the Adjusted Service Fee corresponding to the generating Plant of the Malaya TPP affected by the Force Majeure event, Php

MSF is the Service Fee as determined in accordance with item 13.4 (a), (b), (c) and (d), Php

BP is the number of days within the Invoice Period

RCU is the rated capacity, as stated in **Section VII. Technical Specifications Appendix 1**, of the generating Plant of the Malaya TPP affected by the Force Majeure event.

RCT is the rated capacity of the Malaya TPP as stated in **Section VII. Technical Specifications Appendix 1**.

FOP is the Force Outage Period, days

13.5. Termination for Force Majeure

- (a) Subject to and in accordance with the provisions of **Section VI. Schedule of Requirements Clause 13.3**, either Party may terminate the Contract by reason of Force Majeure. Pursuant to such termination, the Owner shall pay to the Operator the following amounts for:

1. the costs of work in progress performed by the Operator under the Contract which the Owner has not previously paid for, in accordance to **Section VI. Schedule of Requirements** Clause 11.1;
 2. any and all fees which have been earned by Operator up to the date of termination of the Contract which the Owner has not as yet paid; and
 3. Additionally, and by way of final settlement, a sum equal to the portion of the Service Fee stated in the relevant provision of **Section VI. Schedule of Requirements** Clause 13.4 corresponding to the unexpired portion of the Term.
- (b) Save as set forth above, the Owner shall not otherwise be responsible for paying any costs or otherwise have any liabilities whatsoever arising from such termination.
- (c) Furthermore, notwithstanding the generality of the foregoing, such termination shall not in any way affect liabilities or duties which were owed by one Party to the other Party prior to such termination.

14. Termination for Cause

Without prejudice to any other rights of either Party and subject to other provisions contained herein:

If either Party commits a material breach of its obligations under the Contract, the other Party may give immediate notice in writing specifying in detail the breach complained of and:

- (a) if the breach is capable of being remedied and is not remedied within one (1) month or such longer cure period as is set forth in the Contract or is reasonable under the circumstances or if the Party which committed the breach willfully does not immediately take reasonable steps to commence the remedy of the breach complained of; or
- (b) if such breach is not remediable and the Contract does not provide for a remedy which is exclusive for such breach; or
- (c) subject to **Section VI. Schedule of Requirements** Clause 6.2, if the event giving rise to the breach is repeated by the Party which committed the breach;

then the other Party may, by written notice, terminate the Contract without prejudice to (i) any rights and remedies of either Party in respect of any antecedent breach of the Contract, and/or (ii) the liabilities of either Party under the Contract prior to such termination.

In the event of termination under Section VI. Schedule of Requirements Clause 14 the Party which is in breach of its obligations under the Contract shall within thirty (30) days of such termination, pay to the other party all sums (including, without limitation, any default interest calculated pursuant to Section VI. Schedule of Requirements Clause 6.2) due and payable hereunder up to the date of termination.

15. Pre-Termination in Case of Privatization

In the event that the ownership, possession, and/or operation of MTPP is transferred to another entity resulting from privatization, PSALM may:

- a) Transfer/assign its contractual obligations under this OMSC upon written notice to the new owner of MTPP; or
- b) pre-terminate the Contract upon no less than thirty (30) days written notification to the Operator, provided that, the written notice under this Clause 15 may not be issued by the Owner within thirty (30) days from the Effective Date; and provided further that any pre-termination of the Contract under this Clause 15 shall become effective on the 25th day of the relevant month.

The above shall be without prejudice to payment of claims which were incurred prior to the transfer of the contractual obligations or termination of the Contract. From the date of transfer or termination of the Contract under this Section, PSALM shall not be liable to the Supplier for any claim, cause or action accruing from the date of such transfer or termination.

16. Ownership and Confidentiality of Documents and Information

- a. The Operator recognizes the Owner's ownership and/or title to any and all items, drawings and specifications provided by the Owner, together with any other document or item furnished by the Owner to the Operator during the Term and all such items shall remain the property of the Owner.
- b. Neither the Owner nor the Operator shall, unless required by Good Engineering Standards and Practices, disclose to its employees, sub-operators, financing bank or its engineers except on a "need to know" basis, or to any third person, any data or information disclosed to it by the other Party relating to such Party or to its customer and Operators and which is designated by the other Party as "confidential" or "proprietary" either during or after the Term, provided, that the Operator may disclose the Owner's proprietary information to the extent required to satisfy any insurer's "full disclosure" requirement. The foregoing obligation shall not apply to information which is public knowledge unless the same became public knowledge as a result of a breach of this Clause.

- c. The Operator shall not issue any press release, advertisement, publicity material or similar written matter or participate in a media interview which mentions or refers to the Malaya TPP without the consent of the Owner, which consent shall not be unreasonably withheld.
- d. Any document, other than this Contract itself, enumerated in **Section VI. Schedule of Requirements** Clause 16 shall remain the property of the Owner. Prior to the expiration of the Term, the Operator shall return to the Owner all Operating and Maintenance Manuals, as-built-drawings and other documentation supplied by Owner to Operator during the Term and any amendments thereto which were made during the Term. The aforementioned documents shall be in good condition, regard being given to their age and completeness. However, all designs, drawings, sketches, reports, electronic data contained on magnetic storage medium or other documents furnished, produced and used by the Operator during the Term and for the execution of obligations herein shall be the property of the Operator and all such items shall remain the property of the Operator.

17. Warranty

- 17.1. Neither the Owner nor the Operator has made any representation, warranties or covenants with respect to the Malaya TPP or otherwise except as expressly set forth herein. The execution of the Contract shall not be deemed to convey any estate or interest in the Malaya TPP, or any right to exclusive possession thereof, to the Operator.
- 17.2. The Operator hereby represents and warrants that its execution, delivery and performance of the Contract does not or will not (i) violate or contravene any provision of Philippine law, or (ii) conflict with or violate any provision of its Articles of Incorporation.
- 17.3. The Operator hereby agrees to require its personnel and the employees of its sub-contractors, if it has any, to extend their full cooperation with the Owner by reporting or causing to be reported any information affecting the security of the Malaya TPP.
- 17.4. The Operator guarantees that any such item to which the Owner holds title shall not be subject to any lien or to any sub-contractor's retention of title. Any such item which remains in the possession of the Operator or any sub-contractor shall be marked and otherwise identified by the Operator as being the property of the Owner.
- 17.5. The Owner hereby represents and warrants that:
 - (a) it is the owner of the Malaya TPP;
 - (b) it has full corporate power and authority to execute, deliver and perform the Contract;

- (c) its execution, delivery and performance of the Contract has been duly authorized by all requisite corporate action on its part and no further corporate action or proceeding on its part is necessary to authorize its execution, delivery and performance of the Contract;
- (d) its execution, delivery and performance of the Contract does not or will not (i) violate or contravene any provision of Philippine law, or (ii) conflict with or violate any provision of its charter.

17.6. The Operator hereby represents and warrants that:

- (a) Neither it nor its representative has offered or paid, directly or indirectly, any government official or any official or employee of the Owner any consideration or commission for the Contract nor has it or its representative exerted or utilized any corrupt or unlawful influence to secure or solicit the Contract;
- (b) It will not sub-contract any portion or portions of the obligations of the Contract awarded to it to any official or employee of the Owner or to any relatives within the third degree of consanguinity or affinity of the Owner's officials who are directly and indirectly involved in the Contract award or project prosecution;
- (c) If any commission is being paid to a private person, it shall disclose the name of the person and the amount being paid.
- (d) The Parties agree that any violation of this **Section VI. Schedule of Requirements** Clause 17 shall constitute sufficient ground for the termination of the contract or the reduction from the contract price of the consideration or commission paid, which termination or price reduction shall be without prejudice to any other right to file a civil or criminal action under any anti-graft laws of the Philippines or any other applicable laws against the Operator, its representative, the Owner or any official and employee thereof.

18. Waiver

No failure by the Operator or the Owner to insist upon the strict performance of any term, covenant or condition of the Contract, or forbearance in exercising any right or remedy upon breach of any provision, and no acceptance of performance or payment during the continuation of any such breach, shall constitute a waiver of any term, covenant or condition herein or waiver of any subsequent breach or default in the performance of any term, covenant or condition herein.

The Owner's inspection of or failure to inspect the activities of the Operator shall not relieve the Operator of its obligations to fulfill the requirements of the Contract.

19. Termination for Convenience

The Owner may terminate a contract for the convenience of the Government if it has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.

20. Settlement of Disputes

- 20.1 If any dispute or difference of any kind whatsoever shall arise between the Owner and the Operator in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2 If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Owner or the Operator may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3 Any dispute or difference in respect of which a Notice of Intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4 In the case of a dispute between the Owner and the Operator, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."
- 20.5 Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Owner shall pay the Operator any monies due the Operator.

21. Effectivity and Term of Contract

The Contract shall be effective as of the Effective Date and shall continue to be in full force and effect until the Expiration Date.

22. Extension of Term by Agreement

The Owner may propose to extend the Term for such period as may be allowed by applicable laws, upon thirty (30) days prior written notice to the Operator.

The Operator shall return the notice of extension, with its conformity, within three (3) days upon receipt thereof. Otherwise, the Term is deemed expired

and the Parties shall meet within three (3) days to discuss the close-out activities.

23. Expiration of the Term

On the Expiration Date, the parties shall adjust any claims between them and all outstanding payments will be effected, such amounts to be paid within thirty (30) days after the Expiration Date. The Owner shall return the Performance Security not later than seven (7) working days following the expiration date of the Performance Security.

24. Assignment of Warranties/Guarantees

Save in the case of termination for cause by the Operator under Clause 14 above, the Operator shall on any termination or expiration forthwith pass to the Owner, to the extent available, the benefits of all warranties and guarantees relating to spare parts and materials supplied to the Malaya TPP by the Operator's sub-contractors or Operators provided that such spare parts and materials have been paid for by the Owner.

25. Governing Law of the Contract

The Contract shall be construed in accordance with, and any dispute arising in connection with the Contract, shall be governed by the laws of the Republic of the Philippines.

26. Service of Notices

All notices to be given under the Contract shall be in writing and sent by registered post or certified mail, postage prepaid, or by hand delivery, or by express courier service or by telefax (with the original being sent by ordinary mail) to the Parties as follows:

(a) If to the Owner:

Power Sector Assets and Liabilities
Management Corporation

Attn. Office of the President and CEO
PSALM Corporation
3/F National Transmission Corporation (TransCo) Bldg.
Power Center, Quezon Avenue cor. BIR Road
Diliman, Quezon City 1101
Fax No: (632) 840-5341
Tel No: (632) 893-8202

(b) If to the Operator:

27. Change in Address for Notices

Either Party may, however, from time to time, by written notice sent or delivered in the manner provided above, specify a different address for notices to it, and any change of address shall take effect upon such notice being given to the other Party.

28. Entirety of Agreement

The Contract constitutes the entire agreement between the Parties with respect to the matters contained therein and any and all prior agreements or understandings between them concerning such matters are superseded. Any oral or written representation, warranty, course of dealing or trade usage not contained or referred to in the Contract will not be binding on the Parties.

29. Validity Clause

If any Clause or part thereof of this Contract is held invalid, void or otherwise ineffective as a consequence of a judicial or other ruling, (a) the validity of the other provisions hereof shall not be affected thereby; and (b) the Parties shall use their best efforts to amend the Contract so that it has the same economic effect for the Operator had the invalid, void or ineffective Clause(s) or part thereof been binding.

Section VII. Technical Specifications

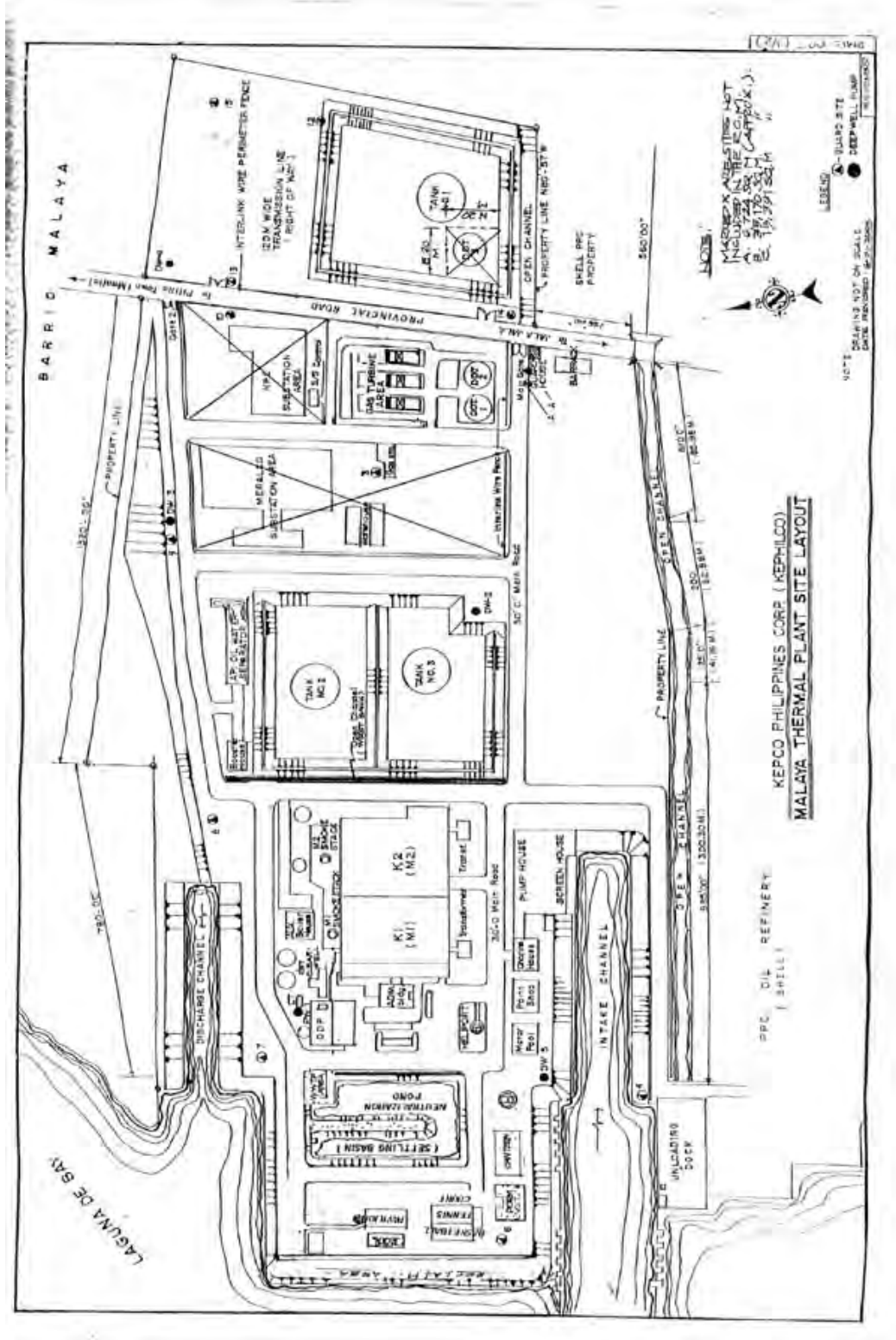
Technical Specifications

TABLE OF CONTENTS

SECTION VII. TECHNICAL SPECIFICATIONS	115
APPENDIX 1. FACILITY DESCRIPTION AND OPERATING PARAMETERS.....	117
APPENDIX 2: INITIAL STOCKS	120
APPENDIX 3: OPERATOR'S STOCK	121
APPENDIX 4: OWNER'S OBLIGATIONS FOR THE PROVISION OF FUEL.....	124
APPENDIX 5: FORM FOR NOTICE OF CURTAILMENT OF MALAYA TPP OPERATION	1366
APPENDIX 6: TYPES OF INSPECTION AND MAINTENANCE WORK	1388
APPENDIX 7. PROCEDURE FOR FUEL TESTING AND ACCEPTANCE	149
APPENDIX 8: PSALM-OWNED GENERAL PLANT EQUIPMENT	1577
APPENDIX 9: AMENDMENT TO ORDER REQUEST FORM.....	1588

APPENDIX 1. FACILITY DESCRIPTION AND OPERATING PARAMETERS

FACILITY DESCRIPTION



OPERATING PARAMETERS

The Operator shall operate the Power Complex in accordance with the operating criteria and guidelines of the Owner and in compliance with the Department of Energy (DOE) Circular No. DC 2014–01-0003 designating Malaya TPP as a Must-Run Unit. The Operator shall cooperate with the Owner in establishing emergency plans including, but not limited to, recovery from a local or widespread electrical blackout; voltage regulation to effect load curtailment and supply of MVAR within operating limits; and other plans which may arise. The Operator shall operate the Power Complex, provide start-up time and minimum load-carrying ability, as follows:

1. Frequency Limitation

The frequency limitation of the Power Complex for continuous operation shall be between the range of 57.8 Hertz and 61.2 Hertz.

The under frequency tripping relay shall be set at 57.8 Hertz.

2. Maximum Continuous Load Operation

The Power Complex shall be guaranteed to operate satisfactorily at 150 MW after Effective Date at the generator terminal and at the following design criteria:

MALAYA I -

Rated Capacity	:	300 MW
Dependable Capacity	:	150 MW
Turbine-Generator Speed	:	3600 RPM
Main Steam Pressure	:	2700 PSI
Reheat Steam Temperature	:	1000 Deg-F
Turbine Exhaust Pressure (at 85 Deg-F CW temp.)	:	2.00 In Hg Abs.
Generator Power Factor	:	0.90
Generator Voltage	:	21,000 Volts
Generator Hydrogen Press	:	45 PSI

MALAYA II -

Rated Capacity	:	350 MW
Dependable Capacity	:	0 MW
Turbine-Generator Speed	:	3600 RPM
Main Steam Pressure	:	2400 PSI
Main Steam Temperature	:	1000 Deg-F
Reheat Steam Temperature	:	1000 Deg-F
Turbine Exhaust Pressure (at 85 Deg-F CW temp.)	:	2.35 In Hg Abs.
Generator Power Factor	:	0.90
Generator Voltage	:	21,000 Volts
Generator Hydrogen Press	:	45 PSI

3. Minimum Load

The Power Complex shall be guaranteed to operate continuously at a minimum stable load of 130 MW for each of Malaya I and Malaya II. However, due to the damaged Air Preheater of Malaya II, the Unit is unavailable until such time that said equipment be replaced.

4. Plant Operation Characteristics

At normal operation, except during start-up and shutdown, the Units shall be capable of being operated as follows:

a. Cold Start-up to Synchronization (Off line for more than 72 hours)

Malaya I	-	14 hours
Malaya II	-	8 hours

b. Warm Start-up to Synchronization (Off line between 12 and 72 hours)

Malaya I	-	10 hours
Malaya II	-	6 hours

c. Hot Start-up to Synchronization (Off line for less than 12 hours)

Malaya I	-	6 hours
Malaya II	-	4 hours

d. Synchronization and loading to full load under normal condition, ramp increase

Cold Start-up	-	0.6%/min
Warm Start-up	-	1.0%/min

e. Instantaneous load variation - 5% of Rated Capacity if a Unit has been operated over a sufficient period under steady conditions.

5. The Units shall be capable of being operated 90% power factor at rated capacity.

6. Allowable start-up fuel consumption (Liters):

UNIT	LFO	IFO
Malaya I		
Cold	75,000	40,000
Warm	54,000	-
Hot	33,000	-
Malaya II		
Cold	49,000	12,000
Warm	26,000	-
Hot	18,000	-

APPENDIX 2: INITIAL STOCKS

(Please see separate document)

APPENDIX 3: OPERATOR'S STOCK

ITEM NO.	DESCRIPTION / SPECIFICATION
I. BOILER PART	
1	MTPP1 Boiler Tubes (For short tube leak repair)
2	MTPP1 GRF Bearings
3	MTPP1 AH Seals
4	MTPP1 Burner Diffuser
5	MTPP1 Burner Distance Piece
6	MTPP1 Burner Tips
7	MTPP1 Burner Gaskets
8	MTPP1 Burner Flexible hoses
9	MTPP1 FOBP Mechanical Seals
10	MTPP1 FOBP Bearings
11	MTPP1 Boiler Observation Port Sight glass
12	MTPP1 Boiler Observation Port Gaskets
13	MTPP1 RSB Pre-formed packing
14	MTPP1 RSB Oil seal
15	MTPP1 Valves Packing
16	MTPP1 Valves Gasket
17	MTPP1 Damper Bearings
18	MTPP2 Boiler Tubes (For short tube leak repair)
19	MTPP2 FDF Bearings
20	MTPP2 FDF Flexible Hose
21	MTPP2 GRF Bearings
22	MTPP2 GRF Carbon Ring
23	MTPP2 AH Seals
24	MTPP2 Burner Diffuser
25	MTPP2 Burner Distance Piece
26	MTPP2 Burner Tips
27	MTPP2 Burner Gaskets
28	MTPP2 Burner Flexible hoses
29	MTPP2 FOBP Mechanical Seals
30	MTPP2 FOBP Bearings
31	MTPP2 Boiler Observation Port Sight glass
32	MTPP2 Boiler Observation Port Gaskets
33	MTPP2 RSB Pre-formed packing
34	MTPP2 RSB Oil seal
35	MTPP2 Valves Packing
36	MTPP2 Valves Gasket
37	MTPP2 Damper Bearings
38	Plates, 1/8" to 1" thick

ITEM NO.	DESCRIPTION / SPECIFICATION
39	Fabric Expansion Joint
40	Air-Operated Double Diaphragm Sump Pump
41	Pipes (size: 1/2" up to 10" ø)
42	Valves (size: 1/2" up to 2" ø)
43	Common packing
44	Common gasket sheet
45	Welding Electrode
46	Insulation materials
47	Penetrating Oil
48	Lubricants
49	Bolts / nut & washer
50	Tools (i.e., Hand Tools, Power Tools, etc.)
51	Grinding discs
52	Cutting discs
53	Oxygen Gas
54	Acetylene Gas
55	Argon Gas
56	Hoses
57	Paints
58	Brush
59	Inspection door sight glass (Pyrex)
60	Sandpaper
61	O-ring
62	Flexible gasket
63	Bearing (Size: 1/2" up to 2" ø)
64	G.I. Sheets GA 26
65	Angle bars (Size: 1" x 1" up to 3" x 3" ø)
66	Channel Bars
67	I - Beams
68	Mechanical fittings
69	Metal sheet and wire products
70	Manila rope
71	Hand gloves
70	Hose connectors
71	Rags
70	Sacks
71	Civil work materials
72	Hardware Materials
II. TURBINE PART	
1	Disc and disc springs for oil cooler and bearing housing.
2	Spiral wound gaskets for crossover pipe, LP casing and gland steam

ITEM NO.	DESCRIPTION / SPECIFICATION
	seal
3	Oil pump shaft, bearing, and bush for Turbine, BFP, and CWP lube oil system
4	Radial and thrust bearings for BFP, booster pumps, and speed-up gear
5	Mechanical seal and packing for HSCCP, RWP, SWP, HP and Water treatment plant facilities
6	Shaft sleeves for BFP, COP, CWP, HSCCP, RWP, SWP, HP and Water treatment plant facilities
7	Casing rings for HSCCP, RWP, and Water treatment plant facilities
8	Impeller and shaft for HSCCP, RWP, SWP, HP and Water treatment plant facilities
9	Shaft coupling for BFP, Booster pump, HSCCP, RWP, SWP, HP and Water treatment plant facilities
10	Thrust collar for BFP and booster pump
11	Cut less bearing for CWP and COP
12	Spiral wound gaskets and high-pressure seal ring for valves
13	Rubber gasket, O-ring, and oil seals for BFP, CWP, COP, HSCCP and Water treatment plant facilities
14	Bolt, nut, and washer for pipe flange
15	Set screws
16	Speed-up and planetary gear for BFP and CWP
17	Rubber Gasket for Heat exchanger
18	Heat exchanger heating plates
19	Level gauge for LP and HP heaters
20	Nozzles for MAE and SJAE
21	Stem, disc, seat, and packing for minor valves
22	Pipe expansion bellows up to 6"ø
23	Flange bearing for Water Treatment Plant tank agitator
24	Oil and air filter for air compressor
25	Cleaning device nozzles for travelling screen
26	Trash bar
27	Brake pads for overhead cranes
28	Mica shield and glass for LPH and HPH
29	Rotor vane for SOVP
30	Bearings for MD-BP speed-up gear
31	Bearing bush
32	Ruptured diaphragm for Turbine LP casing
33	Coupling bolts for COP, CWP, RWP, HSCCP, water treatment facilities
34	Stem and disc for low pressure valves
35	Fuel and oil filters for Emergency Diesel Generator and Fire Engine

ITEM NO.	DESCRIPTION / SPECIFICATION
	Pump
36	Basket strainer for Bernoulli filters
37	Thrust and needle bearings for metering pumps
38	Suction and discharge valve plate for KAJI and 30mm4 compressor.
39	Piston ring for 30mm4 compressor
40	Dual pressure switch for centralized aircon
41	Refrigerant compressor for split and window type ACU
42	Silent chain for MTPP2 Turbine turning device
43	Rubber seat for butterfly and diaphragm valves
44	Steam trap and orifice
45	Oil deflector for BFP and BP
46	Spider bushing for vertical pumps
47	LP and HP elements for Atlas Copco compressor
48	Anti-seize lubricants, moly-lube grease in aerosol can
49	Instant adhesive "Loctite 495"
50	Penetrating oil (aerosol can)
51	Safety solvent, fast dry
52	Petro Grease EP2
53	Belt Conditioner
54	Dye penetrant, crack and flaw detector
55	Metal treatment concentrate rust converter
56	Permatex gasket maker, 302ml/tube
57	Threebond liquid gasket 1102
58	Metal repair compound / Epoxy / Cold Welding Compound
59	Packing, flexible graphite braid with and w/out inconel wire
60	Gland packing, Multi-Ion 1727
61	Chamfering rod MG 570
62	Filler Rod HIG 100, HIG 90, TGS 316L
63	Tungsten rod 2% thoriated, red end
64	Welding Electrode CMA 106, CMA 96, LB 52, Stellite #6, SS316
65	Gasket sheet, Flexible graphite, non-asbestos Kevlar fiber, with and without wire insert
66	Rubber sheet, neoprene with nylon insertion
67	Teflon gasket sheet
68	Crocus cloth
69	Grinding disc, raised hub cotton laminated, type - 27
70	Cutting disc, double reinforced type-2 medium
71	Cut-off wheel
72	Mechanical cloth
73	Sand paper
74	Glass, clear, size -2 x 4

ITEM NO.	DESCRIPTION / SPECIFICATION
75	Glass, Dark, #10 and #12
76	Carbon Brush for 4" and 14" Portable cut-off Model No. 2414B
77	Carbon brush for 4" Makita Disc Grinder Model no. N9500N.
78	Chicken wire, AWG #20
79	Cup brush, steel.
80	Expanded Metal sheet.
81	Push brush, nylon bristle with handle
82	Scouring pad, Scotch brite
83	Steel brush with wooden handle
84	Disposable cloth, "KAPPLER" size - Large, XL
85	Gloves, knitted, heavy duty, white color
86	Manila Rope
87	Oil stone (carborandum)
88	Pen metal marker (white) "ZEBRA"
89	Waste Rags
90	Rice sack
91	Paper Towel, disposable wiper sheet.
92	Roller brush with tray and handle (7"W)
93	Soapstone
94	Spatula (wooden handle)
95	Paints, primers, and thinners
96	Castable, Insulating Lightweight, Density 1250kg/cum
97	Mineral wool board, density 200kg/M3
98	Calcium silicate insulating board
99	Knitted tape
100	Fiberglass Rope
101	Teflon tape, size - ½" x 540"
102	Freon, R-141, R-22, R-134A
103	Refrigerant oil
104	Nitrogen gas
105	V-belt
106	Copper tube
107	Insulation pads
108	Silver rod
109	Silver brazing flux
110	Motor capacitor
111	Overload protector
112	Refrigerant compressor
113	Temperature controllers window and split type ACU
114	Selector switch for window and split type ACU

ITEM NO.	DESCRIPTION / SPECIFICATION
115	Spare parts for centralized aircon Copeland compressors
116	Evaporator and condenser fan motors for aircon
117	Shafting materials, stainless steel SUS 304
118	Bushing material, bronze, die-cast modified SAE alloy (solid)
119	Teflon rod, general purpose, virgin, resin, with normal dimensional stability
120	Pipe, Stainless and carbon steel
121	Pipe fittings and connectors
122	Stainless steel plates, T-304
123	Mild steel plates
124	Corten steel plates
125	Shim stock, stainless steel, tempered
126	Machine bolts, hexagonal head, stainless steel
127	Set screw, Allen head
128	Washer, flat and lock
129	Ball Bearings (up to 4"Ø shaft)
130	Roller Bearings (up to 4"Ø shaft)
131	Flange Type Bearings (up to 4"Ø shaft)
132	Oil seals (up to 4"Ø shaft)
133	O-rings (up to 5mmØ)
134	Diaphragm valve, weir type, teflon body diaphragm (up to size 2"Ø)
135	Diaphragm valve, weir type, rubber Gr. 5 body diaphragm (up to size 2"Ø)
136	Ball Valves, stainless and bronze body (1/2" to 2-1/2"Ø)
137	Gate Valves, stainless and bronze body (1/2" to 2-1/2"Ø)
138	Pistons, Piston Rings, Tension Rings, rider rings and O-rings for all Station Air Compressors
III. ELECTRICAL PART	
1	Card, DS-A011, MTPP1 AVR
2	Card, DS-A012, MTPP1 AVR
3	Card, DS-A818, MTPP1 AVR
4	Card, DS-A980, MTPP1 AVR
5	Amplifier, LM107, LM307H, LM709, MTPP1 AVR
6	Current Transformer, Hole, HCT-A MTPP1 AVR
7	Transformer, DPT1, Daesan, MTPP1 AVR
8	Relay, lockout, MVAJ14D, for 86V, MTPP1 AVR
9	Module, APA 520A, MTPP2 AVR
10	Module, APS310A, MTPP2 AVR
11	Module, APS 760A, MTPP2 AVR
12	Module, 94B, MTPP2 AVR
13	Module, 170B, MTPP2 AVR

ITEM NO.	DESCRIPTION / SPECIFICATION
14	Pulse Transformer, TR2, Hitachi, MTPP2 AVR
15	Capacitors, diodes, resistors, thyristor, AVR
16	Overload relay, fan/oil pump, MTPP1/MTPP2 Main transformer
17	Cooling Fan unit, MTPP1/MTPP2 Main transformer
18	Power supply module, VSF 50-DD, UPS
19	Static switch driver card, IG-160, UPS
20	System logic board, IG-150, UPS
21	Module Triac DR102, UPS
22	Ammeters, generator/turbine motor
23	Bearings, roller/ball, MTPP1/MTPP2 480 V motor
24	Bearings, roller/ball, NU328/7332B, MTPP1 CWP motor
25	Bearings, roller/ball, NU326/7332B, MTPP1 CP motor
26	Bearings, roller/ball, NU218/6218, MTPP1 MFOP motor
27	Bearings, roller/ball, NU320/6320, MTPP2 BFP-T motor
28	Bearings, sleeve, MTPP1 BFP-M motor
29	Bearings, sleeve, MTPP2 FDF 2A motor
30	Bearings, sleeve, MTPP2 BFP-M motor
31	Bearings, sleeve, MTPP2 CWP motor
32	Carbon Brush, for MTPP1/MTPP2 Generator
33	Control Transformers, 480 V MCC
34	Magnetic Contactors, 480 V MCC
35	Molded Case Circuit Breakers, 480 V MCC
36	Motor, 480 V, H2 seal oil pump, MTPP2 generator
37	Oil Mineral, MT1/2, S1, S2 transformer
38	Overload Relays, 480 V MCC
39	Power supply unit, Nemic Lambda, 24 VDC
40	Relays (Power, Precision and Miniature), 480 V MCC
41	Switch, illuminated PB
42	Timers, 480 V MCC
43	Transformer, distribution, 480-220/110 VAC
44	Transformer, Variac, Stavol
45	Voltmeters, generator/turbine motor
46	Adhesive Instant "Locktite 495" 20g/tube
47	Air Rubber Hose
48	Blind Rivets
49	Bolts and Nuts with Flat and Spring washers
50	Cable Ties
51	Cambric Tubing
52	Carbon Brush for Power Tools
53	Contact Cleaner, aerosol can, 16oz./can
54	Contact Grease

ITEM NO.	DESCRIPTION / SPECIFICATION
55	Cork Gasket
56	Crocus Cloth, Fine
57	Cutting Disks
58	Drill Bits
59	Dry Cell Batteries
60	Duplex Convenient Outlets
61	Electrical Conduit Couplings, Locknuts and Bushings
62	Electrical Conduits
63	Electrical Control Cables
64	Electrical Flat Cord
65	Electrical Wires, Stranded
66	Fiber Boards
67	Fiberglass Tubing
68	Filter Elements/Cartridges
69	Filter Pads 1yard x 20 yards x 3/4 " thick
70	Fluorescent Lamps, preheat/rapid start
71	Fuses (Low Voltage)
72	Gasket Three-bond Liquid
73	Gloves, knitted
74	Grinding disks
75	Hacksaw Blade, 12"
76	Hand Taps
77	Heater strip/element
78	High Pressure Duster, aerosol can, 16oz./can
79	High Voltage Heat Shrinkable Tubings
80	Incandescent Bulbs
81	Indication Lamp Holders
82	Indication Lamps
83	Insulating Papers (Mylar)
84	Lamp Fixtures Fluorescent
85	Lamp Sockets Incandescent
86	Lamp holders Fluorescent
87	Lamps ballasts Fluorescent
88	Lamps Compact Fluorescent
89	Lamps starters Fluorescent, 4-40W, 230V
90	Lighting Fixtures Globe
91	Liquid Soap
92	Magnet Wires
93	Mercury Lamps
94	Motor Bearing Grease
95	Motor Cleaner, aerosol can, 16oz./can

ITEM NO.	DESCRIPTION / SPECIFICATION
96	Motor Space Heaters
97	Nylon Rope
98	Oil Seal
99	O-Ring Gaskets
100	Paint Brushes
101	Paint, Epoxy
102	Paint Thinner
103	Paper Towel
104	Penetrating oil, aerosol can, 16 oz./can
105	Plastic Hose
106	PVC Heat Shrinkable Tubings
107	Rags, cotton
108	Rope Abaca
109	Rubber Gaskets
110	Safety solvent
111	Sand papers
112	Sealant Silicone
113	Silica Gel
114	Soldering Lead
115	Soldering Paste
116	Tape Cambric, 0.18mm x 3/4" x 25 yards
117	Tape Electrical PVC, 0.16mm x 19mm x 16M
118	Tape Rubber, self-fusing, 20mil x 3/4" x 8M
119	Tape Teflon
120	Tapes Masking
121	Terminal Blocks
122	Terminal Lugs
123	Terminating Kits
124	Toggle Switch
125	Tux and Screws
126	Tumbler Switch
127	Tying Cord
128	Utility Box
129	Varnish, insulation
IV. INSTRUMENTS AND CONTROL PART	
1	Control air filters, regulators and drain tenders
2	Solenoid valves
3	Limit switches
4	Float switches
5	Pressure gauges
6	BMS PC cards

ITEM NO.	DESCRIPTION / SPECIFICATION
7	Infi 90 & N-90 Power supply, Slave modules and Control Stations
8	Instrument sensors, probes and detectors
9	Control Valve regulators, boosters and diaphragms
10	Thermocouples, thermometers and RTD`s
11	Recorder parts
12	TSI Vibration Sensors and Cables
13	Relays
14	Coils
15	Resistors
16	Battery
17	Instruments valves (ball valve, gate valve, needle valve)
18	Hydraulic filters
19	Parker Telepneumatic solenoid valve
20	O-rings
21	Electrodes
22	Diaphragms
23	Capacitors
24	Diodes
25	Terminal Lugs and Connectors
26	Fuse and Fuse Holders
27	Rubber Insulation
28	Gasket
29	Rubber Hose
30	Copper Tubings
31	DCS Exhaust/ Cooling Fans
32	Control cables and Wires
33	Thermowell
34	Instrument manifold
35	Diaphragms
36	Manometer
37	Signal Driver
38	Accelerometer
39	Indicators
40	Float Ball and rod
41	S Con signal converter
42	Instrument mounting rack and bracket
43	Battery
44	Contact Cleaner
45	Cutting Oil
46	Penetrating Oil
47	Safety Solvent
48	Gloves (knitted)
49	Glycerin 99% Pure
50	Hacksaw Blade

ITEM NO.	DESCRIPTION / SPECIFICATION
51	Spray Paint
52	Plastic Transparent
53	Rags
54	Teflon Tape
55	Silicon Sealant
56	Silicon Grease
57	Rubber Tape
58	Sand Paper
59	Drill Bit
60	Soldering Paste
61	Soldering Iron
62	Tapes and abrasives
63	Calibration Gas
64	Bulbs and lamps
65	Instruments valves (ball valve, gate valve, needle valve)
66	Hydraulic filters
67	BMS indicating lamps
68	Recorder ink and papers
69	Parker Telepneumatic solenoid valve
70	Recorder ribbon and cartridge
71	O-rings
72	Printer ink cartridges
73	Loctite
74	Electrodes
75	Diaphragms
76	Transmitters, all type
V. CHEMICAL PART	
1	Chemicals for raw water treatment
2	Chemicals for Reverse Osmosis membrane treatment
3	Chemicals for regeneration of demineralizers
4	Chemicals for Boiler feedwater treatment
5	Reagent chemicals for various analyzers
6	Filtration materials for water treatment plant
VI. ENVIRONMENTAL PART	
1	Caustic Soda
2	Aluminum Sulfate
3	Polymer
4	Sodium Hypochlorite
5	Oxygen
6	LPG
7	Toluene
8	Safety Solvent
9	Reagent Chemicals
10	Sulfuric acid

ITEM NO.	DESCRIPTION / SPECIFICATION
11	Ammonium molybdate
12	Isopropyl alcohol
13	Benzoic acid
14	Barium Chloride
15	Potassium acid pathalate
16	Potassium hydroxide
17	Indicators
18	pH buffer solutions
19	Resin/hardener for spill boom
20	Sampling Bottles, glass/plastic(1000ml,500ml,250ml)
21	Beakers, 1000 ml, 500ml, 250ml
22	Graduated Cylinders, 500ml, 100ml
23	Volumetric flasks, 2000ml, 1000ml,100ml, 50ml
24	Pipettes, 100 ml, 10ml, 5 ml
25	Thermometers
26	Fuel Oil samplers 1000 ml; 500ml
27	Tissue papers
28	Bulk bags for ash/sludge
29	Plastic garbage Bags
30	Empty sacks
31	Monitoring/safety gadgets
32	Rechargeable lantern/batteries
33	Poly canvass
34	Crucibles
35	Burettes, 100ml
36	Viscometer tubes
37	Fuel oil Tank Sounding Tape
38	Sounding Cord
39	Spill boom Accessories
40	Ink/Chart paper for WWTP Recorders
41	Thermal Paper, flue gas analyzer
42	Sulfur Analyzer
43	Cathodic Protection
VII. OPERATIONS PART	
1	Filter bag
2	Cartridge filter
3	Collector filter
4	D.H. filter
5	Water filter
6	Make-up filter
7	Equipment Identification Tags
8	CMWO forms
9	Gloves
10	Rags

ITEM NO.	DESCRIPTION / SPECIFICATION
11	Batteries
12	Hydrotur 32, 46, 68, 100, and 185
13	Hypex EP 150, 320, and 680
14	Petrocyl S390
15	Swepeco 104, 105, 201 and 702
16	Petron HD 40
17	Daphne Gold
18	Petrogrease premium 2, EP-2 and XX
19	Premium lithium

APPENDIX 4: OWNER'S OBLIGATIONS FOR THE PROVISION OF FUEL
FUEL OIL SPECIFICATION

TABLE 1: Liquid Fuel Characteristics for Untreated Fuels

The main fuel oil to be supplied by Owner under this agreement shall at all times comply with the specifications set forth below, but subject to adjustment to meet environmental standards:

INDUSTRIAL FUEL OIL SPECIFICATIONS

Property		Unit	ASTM Method	Standard Specifications	
				Min.	Max.
1. Density @ 15°C	OR	kg/L	D-1298 / D-4052	0.9459	
2. Viscosity @ 50°C	OR	cSt	D-445		280
3. Flash Point	OR	°C (°F)	D-93	65 (149)	
4. Pour Point		°C (°F)	D-97		21 (69.8)
5. Ash	OR	% wt	D-482		0.2
6. Sulfur	OR	% wt	D-4294 / D-129 / D-2622		3.0
7. Bottom Sediment & Water	OR	% vol	D-1796		1.0
8. Calorific Value, HHV	SA	Btu/lb	D-240 / D-4868	18,500	
LHV	OR	Btu/lb	D-240 / D-4868	17,200	
9. Trace Metals	OR	ppmw			
a. Vanadium			D-3605 / D-5863 / IP 433		100
b. Sodium			D-1318 / D-5863		33
10. Others					
a. Carbon Residue (CR)	OR	% wt	D-4530-85 / D-189		16
b. Free Water	OR	% vol			1.0

Note:

OR - Outright Rejection

SA - Subject to Price Adjustment between Owner and Fuel Supplier

The startup Fuel to be supplied by Owner under this Agreement shall at all times comply with the specifications set forth below:

INDUSTRIAL DIESEL OIL SPECIFICATIONS

PROPERTY	PENALTY		ASTM Method	Standard Specifications	
				Min.	Max.
Carbon Residue on 10% Distillation residue, max. Conradson or Ramsbottom or Micro	OR	% wt	PNS ASTM D 189 or PNS ASTM D 524 or PNS ASTM D 4530		0.35
Color, ASTM	OR		PNS ASTM D 1500	5.0	
Copper strip corrosion, 3 h at 50°C	OR		PNS ASTM D 130 or PNS ISO 2160		No. 1
Density @ 15°C	OR	kg/L	PNS ASTM D 1298 or PNS ASTM D 4052		0.880
FAME ^a , content	OR	%vol	PNS EN 14078 or PNS/DOE TM 01 or PNS/DOE TM 02	1.7	2.2
Flash point, Pensky-Marten	OR	°C	PNS ASTM D 93	55	
Kinematic viscosity, 40°C	OR	mm ² /s	PNS ASTM D 445 or PNS ASTM D 7042	2.0	4.5
Methyl laurate (C12 ME)	OR	% mass	PNS/DOE TM 01	0.8	
Sulfur	OR	% mass	PNS ASTM D 4294 or PNS ASTM D 2622 or PNS ASTM D5453		0.005
Water and sediment	OR	% vol	PNS ASTM D 2709		0.10
Calorific Value, HHV		Btu/lb	D-240 / D-4868 / D-4809	19,000	
Calorific Value, LHV	SA	Btu/lb	D-240 / D-4868 / D-4809	18,200 to 18,399	
Calorific Value, LHV	OR	Btu/lb	D-240 / D-4868 / D-4809	18,199 and below	

OR - Outright Rejection

SA - Subject to Price Adjustment between Owner and Fuel Supplier

FUEL Delivery Point

In case of tanker deliveries, Fuel supply custodianship by Operator shall commence when the Fuel delivered shall have flowed past the permanent connecting flange between the vessel delivery hose and the receiving line at the jetty/wharf.

In case of tank truck deliveries, Fuel supply custodianship by Operator shall commence when the Fuel delivered shall have flowed past the permanent connecting flange between the tank delivery hose and the receiving tank.

APPENDIX 5: FORM FOR NOTICE OF CURTAILMENT OF MALAYA TPP OPERATION

As provided for in Section VI. Schedule of Requirements Clause 11.3, the Operator hereby gives notice to the Owner of its recommendation to suspend or reduce output from the Malaya Thermal Power Plant or part thereof.

1. Nature of Curtailment Required

2. Reason for Request

3. Possible Outcome IF NOT Undertaken

4. Anticipated Duration

Pililla, Rizal, _____
(Date, Time) (Signature of Owner's Authorized Representative)

The Owner acknowledges receipt of this notification and
EITHER

a) is in agreement with the Operator's recommendation given above.

OR

b) confirms that he has understood the Operator's grounds for a curtailment and wishes to continue full operation of the Facility. The Operator is relieved of all responsibility for any undue consequence arising from not complying with this advice.

(either statement a) or b) to be crossed out if not applicable)

Pililla, Rizal, _____
(Date, Time) (Signature of Owner's Authorized Representative)

5. Result of Curtailment

(To be filled out as record after Curtailment of Operator has been removed)

The Facility was not fully available:

from _____ date _____ time
to _____ date _____ time _____ hours
output _____ MW _____ percentage
generator(s) unit removed from Grid: _____

Pililla, Rizal, _____
(Date, Time)

(Owner's Representative)

(Operator's Representative)

APPENDIX 6: TYPES OF INSPECTION AND MAINTENANCE WORK

1. Major Inspection and Repair

Class	Dept.	
A	Boiler	<ol style="list-style-type: none"> 1. Hydrotest/Inspection/ U.T./Replacement of Boiler of Boiler tubes. 2. Inspection and repair of Flash tank. 3. Overhauling of main and light oil burners. 4. Overhauling of FDF, GRF, MFOP and BP, and major boiler valves. 5. Inspection and hydrotest of SCAH. 6. Replacement /repair of Air Preheater elements and seals and overhauling/inspection of bearings and speed reducer. 7. Rehabilitation of air and gas duct and overhauling of dampers and sootblowers. 8. Repair of Boiler casing, insulation, and refractory. 9. Inspection/adjustment of MSP/HRP/CRP pipe hangers.
A	Turbine	<ol style="list-style-type: none"> 1. Inspection/replacement of Turbine blades (HIP, LP) and parts replacement of Turbine valves, inspection/repair of bearings and oil system. 2. Overhauling of all major and minor pumps (TD/MD-BFP, CWP, RWP, HSCCP & CP), and Turbine major valves. 3. Inspection of BFP-T, valves and governing system. 4. Eddy Current Test (ECT) of Main condenser. 5. Replacement/repair of low (LPH) and high pressure heaters (HPH).
A	Electric al	<ol style="list-style-type: none"> 1. Inspection of Generator and exciter rotors and stators, bearings, and H2 seals. 2. Inspection / simulation of electrical controls. 3. Inspection and cleaning of switchgears and MCC. 4. Generator, transformers and AVR close examination. 5. Inspection and OH 4160V and 440V motors
A	I&C	<ol style="list-style-type: none"> 1. N-90 and INFI-90 System Overhaul and replacement of Unit 1 N-90 System Power Supply. 2. Overhauling of Main Turbine and T-BFP Control 3. Overhauling of Burner Management System 4. Overhauling and Calibration of Control valves, transmitters, controllers and interlock switches. 5. Install Unit 1 Turbine Supervisory System, PCV computer
B	Boiler	<ol style="list-style-type: none"> 1. Inspection/ Repair/Cleaning/ U.T. of Boiler tubes. 2. Inspection and repair of Flash tank. 3. Inspection of main and light oil burners. 4. Inspection/cleaning of FDF, GRF, and major boiler valves. 5. Inspection and hydrotest of SCAH. 6. Inspection /repair of Air Preheaters
B	Turbine	<ol style="list-style-type: none"> 1. Inspection of LP (A & B) Turbine blades, Turbine bearings, valves and oil system. 2. Inspection/repair of all major and minor pumps (TD/MD-

Class	Dept.	
		BFP & BP, CWP, RWP, HSCCP & CP), and Turbine major valves. 3. Inspection of BFP-T, valves and governing system. 4. Inspection/cleaning/hydrotest of Main and auxiliary condensers. 5. Inspection and hydrotest of low (LPH) and high pressure heaters (HPH).
B	Electrical	1. Inspection of Gen. and exciter, bearings, and H2 seals. 2. Inspection and OH 4160V and 440V motors. 3. Inspection / simulation of electrical controls. 4. Inspection and cleaning of switchgears and MCC. 5. Generator, transformers and AVR close examination.
B	I&C	1. N-90 and INFI-90 System Overhaul and replacement of Unit 1 N-90 System Power Supply. 2. Overhauling of Main Turbine and T-BFP Control 3. Overhauling of Burner Management System 4. Overhauling and calibration of vital instruments (control valves, transmitters, and controllers)
C	Boiler	1. Inspection of Boiler tubes. 2. Air pre-heater washing and adjustment of seals. 3. Inspection and adjustment of burners and air register. 4. Inspection and cleaning of FDF and GRF. 5. Repair of air and gas leaks. 6. Cleaning of SCAH. 7. Repacking of high pressure valves.
C	Turbine	1. Inspection/repair of Turbine bearings and oil system. 2. Inspection/repair of all major and minor pumps (TD/MD-BFP & BP, CWP, RWP, HSCCP & CP) 3. Cleaning and hydrotest of Main and auxiliary condenser. 4. Inspection and cleaning of BFP and CP suction strainers. 5. Cleaning of Heat Exchangers and thermo filters.
C	Electrical	1. Generator bearing inspection, exciter and AVR overhaul. 2. MCC, motors overhaul and electrical control interlock test. 3. Generator, transformer and AVR close examination.
C	I&C	1. N-90 and INFI-90 System Overhaul and replacement of Unit 1 N-90 System Power Supply. 2. Inspection and testing of Main Turbine and T-BFP Controls. 3. Simulation and reconditioning of Burner Management System 4. Overhauling and calibration of selected control valves and transmitters.

2. Preventive Inspection and Repair

Class	Dept.	
PM	Boiler (MTPP1)	<ol style="list-style-type: none"> 1. Flash Tank <ul style="list-style-type: none"> - Visual inspection - Wet storage w/ proper hydrazine concentration and pH (during shutdown) 2. Boiler Casing <ul style="list-style-type: none"> - Visual inspection - Record of leak points 3. Burner/observation port/sealing <ul style="list-style-type: none"> - Burner tip measurement - Visual inspection of enclosure - Record observed condition 4. Inspection Door <ul style="list-style-type: none"> - Visual inspection 5. Air Pre-heaters 1A/1B <ul style="list-style-type: none"> - Inspection and Cleaning - Monitoring of ACET & Air/gas parameters - Inspection of un-unusual sound - Inspection of gas leakages - Washing of elements (during shutdown) 6. SCAH 1A/1B <ul style="list-style-type: none"> - Visual Inspection - Inspection of un-usual sound - Record leak parts - Cleaning/washing (during shutdown) 7. FOH 1A/1B <ul style="list-style-type: none"> - Visual Inspection 8. Air and gas ducts and expansion joints <ul style="list-style-type: none"> - Inspection and Cleaning of Air and Gas Duct, Dampers, and Soot blowers 9. Dust Collector and Ash Handling System <ul style="list-style-type: none"> - Inspection of hopper - Check vibro motor if working - Inspection of feeder valve discharge 10. FDF 1A/1B <ul style="list-style-type: none"> - Vibration test - Inspection of unusual sound - Inspection of bearing temperature 11. GRF/Lube oil pumps <ul style="list-style-type: none"> - Vibration test - Check oil leak at bearing - Check bearing temp. 12. MFOP 1A/1B <ul style="list-style-type: none"> - Vibration test - Check oil leak 13. RSB

Class	Dept.	
		<ul style="list-style-type: none"> - Visual Inspection 14. Boiler Valves/Safety Valves <ul style="list-style-type: none"> - Visual Inspection - Check of packing leak - Lubrication/exercise 15. Boiler Tubes (Waterwall, Pri. SH) <ul style="list-style-type: none"> - Wet storage w/ proper hydrazine concentration and pH (during shutdown) 16. Gas Ducts and Breeching <ul style="list-style-type: none"> - Removal of soot/cleaning 17. Furnace Hopper <ul style="list-style-type: none"> - Removal of soot 18. Pipe Hanger/Hydraulic snubber <ul style="list-style-type: none"> - Visual inspection 19. Boiler Valves <ul style="list-style-type: none"> - Visual inspection 20. Ash Handling <ul style="list-style-type: none"> - Visual inspection 21. Expansion Joint <ul style="list-style-type: none"> - Visual inspection 22. Burner Enclosure <ul style="list-style-type: none"> - Visual inspection 23. Auxiliary Boiler (during shutdown) <ul style="list-style-type: none"> - Wet storage w/ proper hydrazine concentration 24. Smokestack <ul style="list-style-type: none"> - Visual Inspection
	Boiler (MTPP2)	<ol style="list-style-type: none"> 1. Boiler Drum <ul style="list-style-type: none"> - Visual inspection - Wet storage w/ proper hydrazine concentration and pH (during shutdown) 2. Boiler Casing <ul style="list-style-type: none"> - Visual inspection - Record of leak points 3. Burner/observation port/sealing <ul style="list-style-type: none"> - Burner tip measurement - Visual inspection of enclosure - Record observed condition 4. Inspection Door <ul style="list-style-type: none"> - Visual inspection 5. Air Pre-heaters 2A/2B <ul style="list-style-type: none"> - Inspection and Cleaning - Monitoring of ACET & Air/gas parameters - Inspection of unusual sound - Inspection of gas leakages - Washing of elements (during shutdown)

Class	Dept.	
		<p>6. SCAH 2A/2B</p> <ul style="list-style-type: none"> - Visual Inspection - Inspection of un-usual sound - Record leak parts - Cleaning/washing (during shutdown) <p>7. FOH 2A/2B</p> <ul style="list-style-type: none"> - Visual Inspection <p>8. Air and Gas ducts and Expansion Joints</p> <ul style="list-style-type: none"> - Inspection and Cleaning of Air and Gas Duct, Dampers, and Soot blowers <p>9. Dust Collector and Ash Handling System</p> <ul style="list-style-type: none"> - Inspection of hopper - Check vibro motor if working - Inspection of feeder valve discharge <p>10. FDF 2A/2B</p> <ul style="list-style-type: none"> - Vibration test - Inspection of unusual sound - Inspection of bearing temperature <p>11. GRF/Lube oil pumps</p> <ul style="list-style-type: none"> - Vibration test - Check oil leak at bearing - Check bearing temp. <p>12. MFOP 2A/2B</p> <ul style="list-style-type: none"> - Vibration test - Check oil leak <p>13. RSB</p> <ul style="list-style-type: none"> - Visual Inspection <p>14. Boiler Valves/Safety Valves</p> <ul style="list-style-type: none"> - Visual Inspection - Check of packing leak - Lubrication/exercise <p>15. Boiler Tubes (Waterwall, Pri. SH, Sec. SH)</p> <ul style="list-style-type: none"> - Wet storage w/ proper hydrazine concentration and pH (during shutdown) <p>16. Gas Ducts and Breeching</p> <ul style="list-style-type: none"> - Removal of soot/cleaning <p>17. Furnace Hopper</p> <ul style="list-style-type: none"> - Removal of soot <p>18. Pipe Hanger/Hydraulic snubber</p> <ul style="list-style-type: none"> - Visual inspection <p>19. Boiler Valves</p> <ul style="list-style-type: none"> - Visual inspection <p>20. Expansion Joint</p> <ul style="list-style-type: none"> - Visual inspection <p>21. Burner Enclosure</p> <ul style="list-style-type: none"> - Visual inspection

Class	Dept.	
		22. Smokestack - Visual Inspection
PM	Turbine	1. Main Turbine - Vibration test and analysis. - Check bearing noise & temperature. - Leak check 2. Major Pumps (MD & TD-BFP, BP, COP, CWO, HSSCP, RWO, SWP) - Visual inspection. - Vibration test and analysis. - Check for leakages. - Temperature trending. 3. Condenser - Condenser tube cleaning and air drying 4. Plate Type HE - Visual inspection. - Check leakages - Performance test - Cleaning of cooling plates 5. CWP Discharge Pipe - Inspection and repair of main condenser inlet and outlet expansion joint. 6. Heaters & Blower ① LPH #'s 1, 2 & 3 ② Drain Cooler ③ HPH 5 & 6 - Drips control valve and by-pass valve inspection and repair. - Extraction valve internal parts inspection and repair. - Level sight glass cleaning. ④ GSC Blower - Repair of blower 7. Screen Wash Pump 1A & 1C - Dismantling and inspection of pump and column pipe - Inspection of discharge and check valve 8. Major Valves and Piping ① De-aerator Level CV & By-pass ② Hotwell Level Recirculation CV & By-pass ③ HPH #5 A/B to De-aerator Drip CV & By-pass ④ Spill-over CV & By-pass ⑤ Dump CV & By-pass - Inspection and repair of valve disc and seat. - Cleaning

Class	Dept.	
		<p>9. Drain Station</p> <ul style="list-style-type: none"> - Calibration and inspection of spring. - Dismantling and lapping of disc and seat. <p>10. Auxiliary Boiler</p> <ul style="list-style-type: none"> ① Condensate Pump ② M-BFP - Internal inspection - Alignment check <p>11. ODP Equipment</p> <ul style="list-style-type: none"> ① Filtered Water Pump 1A/1B ② Raw Water Pump ③ Backwashing Pump ④ Degasifier Pump ⑤ Demineralized Pump - Pump internal parts inspection and repair. - Dismantling and inspection of bearing housing. - Alignment check. ⑥ Deepwell Pump #1, 2, 3 & 4 - Capacity test - Purging of discharge line ⑦ Blowers ⑧ Agitator - Inspection of impeller and housing - Inspection of gear box and propeller - Inspection, cleaning and painting. <p>12. SDP Equipment</p> <ul style="list-style-type: none"> ① R/O High Pressure Pump ② R/O Water Transfer Pump ③ R/O Cleaning Pump - Pump internal parts inspection and repair. - Alignment check. - Pump internal parts inspection and repair. - Alignment check. ④ R/O Membrane - Pull-out and water washing with high pressure washer pump. - Replacement if necessary ⑤ Micro filter and Coagulator Tank - Inspection, cleaning and painting of outer shell <p>13. Station and Control Air System</p> <ul style="list-style-type: none"> ① Atlas Copco #1 ~ #4 compressor. ② Hitachi Air Compressor - Inspection and leak test of intercooler and after cooler.

Class	Dept.	
		<ul style="list-style-type: none"> - Dismantling and OH of unloader valve. - Oil and filter change. - Inspection, cleaning and painting of air receiving tank internal surface. ③ KAJI Compressor - Inspection and repair - Inspection of discharge and suction plates. - Inspection and leak test of cooler 14. ODP/SDP/WWTP <ul style="list-style-type: none"> - Revision of sulfuric acid transfer line. - Painting of chemical tanks - OH of Chemical Injection Pumps 15. Sump Pumps <ul style="list-style-type: none"> ① Turbine & Boiler (MTPP1/MTPP2) Sump Pump ② CWP Trench Sump Pump ③ AH Washing Sump Pump ④ ODP/WWTP Sump Pump ⑤ Spare Sump Pump - Inspection of internal parts - Cleaning 16. Centralized and Packaged Type ACU <ul style="list-style-type: none"> - Inspection and cleaning of evaporator and condenser fins. - Check electrical components. - Check-up and monitor operating parameters. - Overhauling of condenser fan motor. - Check for system leaks and repair. 17. Daewoo and Toyota Forklift <ul style="list-style-type: none"> - Check engine oil, hydraulics system and tires. 18. Overhead Cranes <ul style="list-style-type: none"> - Check wire rope lubrication and hooks. - Check main drive brakes. - Railings and wheel inspection and cleaning. 19. Travelling Screens <ul style="list-style-type: none"> - Inspection and cleaning of baskets, chain links, etc.
PM	Electrical	<ol style="list-style-type: none"> 1. Replacement, repair, inspection & cleaning of 125 VDC Station battery bank and auxiliaries (e.g., charger, etc.). 2. Inspection & cleaning of 220 VDC UPS batteries 3. DC Resistance Test for 24V, 125V and 220V Lead-Acid DC Batteries 4. Main condenser Cathodic Protection inspection and test 5. Oil immerse transformers (10 units) DGA annual test 6. Fire protection alarm system inspection and test

Class	Dept.	
		<ul style="list-style-type: none"> 7. Elevator control system inspection and repair 8. Communication/PABX/internet system inspection 9. Plant lighting (emergency, building and perimeter) system inspection/repair 10. Routine inspection of vital electrical equipment (GEN., AVR, UPS, battery, bkr., motors, filters, etc.) 11. Repair of electrical facility as per issued CMWO 12. 4160 volts ACB's protective relays & panel cleaning, calibration check and test (during shutdown) 13. 480 volts MCC / ACB's panel cleaning, control/ power tightening and interlock simulation test (during shutdown) 14. 125 VDC MCC / ACB's panel cleaning, control/ power tightening and motor simulation test (during shutdown) 15. 4160 V MCC / ACB's panel cleaning, control/ power tightening and interlock simulation test (during shutdown) 16. 480 and 4160 V switchgear tie ACB automatic transfer and re-transfer test (during shutdown) 17. BACC, TACC, ECC MCC and Diesel generator automatic transfer/ start and re-transfer test (during shutdown) 18. Battery chargers and silicon dropper control panel cleaning, terminal bolt tightening and test (during shutdown) 19. BTG, RIB and AXP panel cleaning and terminals connection bolt tightening (during shutdown) 20. FOBP MCC cleaning, auto- transfer and retransfer test. FOBP motor auto start test (during shutdown) 21. Motorized operated valve (MOV) motor / control inspection, cleaning and interlock/ travel test (during shutdown) 22. Main/Auxiliary transformer 230 KV terminal connection check, bolts change protection relay test (during shutdown) 23. Transformer mineral oil purification as per annual DGA and DVB result. (during shutdown) 24. UPS inspection, cleaning, terminal bolt tightening, electrical test and parameters check. (during shutdown) 25. Diagnostic testing of windings, bushings and arresters of Transformers (i.e., MT1, MT2, SE, etc.). 26. Rewinding of 230V, 440V and 460V motors. 27. Rewinding of 3S3 Transformer. 28. Inspection/ calibration of all protection relays (Generator/transformer, 4160V/480V bus, electrical controls, etc.)

Class	Dept.	
PM	I&C	<ol style="list-style-type: none"> 1. MTPP1/2 Weekly Preservation Activities <ul style="list-style-type: none"> - MTPP1/2 Burner Management System simulation - MTPP1 By-pass System travel test / simulation - Travel Test of local Control valves and Dampers 2. MTPP1/MTPP2 Monthly Turbine and T- BFP Preservation Activities <ul style="list-style-type: none"> - Travel Test of MTPP1 & MTPP2 Main Turbine and T-BFP Non Return Valves, Stop Valves and Control Valves on a monthly basis when unit is not in operation. 3. Daily DCS monitoring of MTPP1/MTPP2 N-90 and INFI-90 System. <ul style="list-style-type: none"> - Check Module Status - Check Power Supply - Check Loop Communication 4. Inspection and Cleaning of MTPP1/MTPP2 Network-90 & Infi-90 System <ul style="list-style-type: none"> - Clean and overhaul cooling fan assembly - Clean Operator Interface Stations - Clean Engineering Work Stations - Clean Filters and Process Control Unit 5. De-clogging of Boiler Draft Sensors 6. Cleaning and Inspection of Control Air Mainline Filters 7. Purging of Control Air Filters and automatic drains. 8. Cleaning and replacement of Main Turbine Hydraulic Filters. 9. Repair control air leaks. Replace busted plastic tubing and fittings. 10. Replace defective solenoid valves on Waste Water Treatment Plant and SDP Demineralizing Plant. 11. Inspection and Cleaning of Burner Solenoid valves 12. Inspection and reconditioning of Recorders 13. De-clogging of Air Flow Sensors 14. Cleaning and inspection of transmitters. 15. Inspection, purging and reconditioning of local controllers 16. Inspection of Turbine Supervisory Instruments. Calibration of vibration modules and inspection of vibration sensors and drivers. 17. Calibration of Main Turbine control valves 18. Calibration of Pressure gauges 19. Calibration of Transmitters 20. Calibration of indicators 21. Simulation of Alarms and Interlocks 22. Inspection and cleaning of Local Supervisory Panels (H2

Class	Dept.	
		<p>and CO2 panels, Interposing Relay Panels, Seal Oil System, Stator Cooling System, etc.).</p> <p>23.Reconditioning of CCTV Rack and Automatic Insert Equipment</p> <p>24.Fine tuning of controls</p> <p>25.Troubleshooting and recalibration of control valves and controllers</p> <p>26.Routine inspection of Work boat</p>

APPENDIX 7. PROCEDURE FOR FUEL TESTING AND ACCEPTANCE

A. FUEL DELIVERY MADE THROUGH TANKERS/BARGES

Industrial / Bunker C Fuel Oil (IFO) sources from (various suppliers) which are usually delivered thru tankers/barges shall be received and accepted at the designated Fuel storage tanks of the Units by Operator and Owner in the manner provided below:

1. Upon arrival of the delivery vessel, Owner and Operator shall be jointly responsible for proper checking of accompanying delivery documents. Prior to breaking the seals, Owner and Operator shall jointly board the delivery vessel and check the seals for any sign of tampering against the barge sealing plan issued at the load port. Any unusual condition observed shall be sufficient basis for placing the delivery under protest.
2. Operator shall be responsible for proper valve line-up, preparation and isolation of the designated receiving tank, and sampling and analysis of the Fuel delivery.
3. For the measurement of Fuel delivered, tank sounding figures shall be used. However, if tank sounding is not possible due to Power Complex conditions such as non- isolation of receiving tank, etc., the barge sounding figures shall be used.
4. Barge soundings shall be done by barge or surveyor personnel on all cargo oil tanks in the presence of Operator and Owner representatives.
5. Three composite Fuel samples taken from the top and bottom of all cargo oil tanks shall be prepared. One each of these samples will be retained for comparing or umpiring purposes and for quality analysis by Operator/Owner, respectively. The remaining sample shall be given to the Fuel supplier for its own quality analysis, if necessary. The Operator/Owner sample shall be analyzed by Operator witnessed by Owner.
 - a. The following shall be analyzed using ASTM Procedures to check if the delivered Fuel Oil comply with the agreed specifications.

INDUSTRIAL BUNKER C OIL

PROPERTIES	ASTM METHOD	TEST DESCRIPTION
Density	D-1298	Density, specific gravity or API gravity of crude petroleum and liquid petroleum products by hydrometer method.
Viscosity	D-445	Kinematic Viscosity of Transparent and opaque liquids.
Flash Point	D-93	Flash Point by Pensky Martens closed tester

Pour Point	D-97	Pour Point of Petroleum Products
Carbon Residue	D-4530-85/D-189	Conradson Carbon Residue of Petroleum products
Bottom Sediments and Water	D-1796	Water Sediment in crude oil and fuel oils by centrifuge
Ash	D-482	Ash from Petroleum Products
Sulfur Content	D-4294/D-129	Sulfur content of petroleum products
Sodium	D-1318/D-5863	Trace quantities by atomic absorption spectrophotometry
Vanadium	D-3605/D-5863	Trace quantities by atomic absorption spectrophotometry
Gross Heating value, HHV (BTU/lb)	D-240/D-4868 /D-4809	

6. If Fuel quality analysis of samples taken in items 2 and 5 above shows that the Fuel is within acceptable limits, unloading of the Fuel delivery may be allowed. Otherwise, the delivery shall be rejected.
7. Results of Fuel analysis shall be jointly signed by Operator and Owner.
8. Before installing the connecting hose from the barge and commencing with the Fuel pumping operations, Operator in the presence of Owner, surveyor and barge representatives shall ensure the following:
 - a. Inlet valves to the receiving tank including any recirculation and/or return valves, if any, are fully closed, sealed and padlocked. Owner shall be authorized to check the integrity of these valves.
 - b. Filling line from wharf to receiving tank filling valve is completely filled up with Fuel prior to taking receiving tank Fuel and water opening soundings.
9. All Fuel and water soundings shall be performed at least three (3) times to ensure accuracy and repeatability.
10. When the Fuel delivery has been completed, Operator and Owner shall make sure that the filling valves are fully closed, sealed and padlocked and the connecting hose from the barge is completely removed before inspecting the barge for dryness or residual on board and taking receiving tank initial closing soundings.
11. The following documents shall then be generated for signature of concerned personnel or representatives after discharging the Fuel delivery:
 - (i) Through Barges
 - a. Supplier Surveyor's Computation Sheet or Shore Tank Report
 - b. Barger's Statement of Facts (Discharging)
 - c. Ullage Report (Before Discharging)

- d. Residual on Board (ROB) Report
- e. Supplier's Fuel Laboratory Analysis Report
- f. Owner Fuel Receiving/Turnover Report

- (ii) Through Tank Trucks
 - a. Truck Loading Receipt
 - b. Certificate of Quantity Delivered
 - c. Certificate of Analysis
 - d. NIST Calibration Certificate
 - e. BIR Withdrawal Certificate
 - f. Owner Fuel Receiving/Turnover Report

Note: The generated statement of facts, computation sheet and residual on board or dryness certificate shall be duly attested by Owner representatives.

- 12. Unless interrupted by other Fuel deliveries, final Fuel and water closing soundings shall be taken by Operator after at least six (6) hours from the conduct of initial closing soundings. The results of the soundings shall also be recorded in the Owner Fuel Receiving/Turnover Report.

All documents received and generated at the discharge port for each delivery or voyage shall be immediately forwarded to Owner for valuation and processing of claims together with directly submitted document from the supplier or barge. Copies of the Owner Fuel/Receiving Turnover Report shall be retained by Operator for reference in the preparation of their monthly Fuel Consumption and Inventory Report (FOCIR).

B. FUEL DELIVERY MADE THROUGH TANK TRUCKS

In case of Light Fuel Oil / Diesel Oil (LFO) deliveries which are made through tank trucks to the Light Fuel Oil tank of Malaya Thermal Plant, Operator and Owner shall follow the procedures below:

- 1. Operator shall designate within its premises an area near the receiving tank for purposes of inspecting tank trucks prior to discharging their Diesel Oil cargo. The area should be leveled ground to ensure accurate volume verification.
- 2. Operator shall ensure that tank trucks delivering Fuel to Power Complex register at the security entrance/exit gate. After compliance with the usual security check and registration requirements, the truck driver shall proceed to the designated inspection area.
- 3. Operator and Owner shall perform the following after the tank truck has been properly parked at the designated area.
 - a. Request the supplier's representative (may be the driver) to present the following to ascertain that the Fuel delivery is in order:
 - Supplier Representative's Identification Card

- Product Invoice (Indicating Seal Numbers)
 - ITDI Calibration Certificate
 - Supplier's Laboratory Inspection Report or Product Quality Certificate
- b. Inspect the tank truck for any sign of abnormality that may affect the measurement or volume of the delivered cargo and make sure that:
- Cargo compartments and pipings have no observed leakage.
 - Truck position (front, rear, left, right side) relative to ground level is uniform
 - Inflation of all tires is normal
- c. Check the seals of gauge hatches and discharge valves for any sign of damage or tampering and check if actual seal numbers match with the numbers reflected in the invoice. Also, verify if the discharge valves cannot be opened without breaking the seals. If seals are broken or tampered with or their seal numbers do not match the numbers in the invoice, reject the delivery or compartment (s) in question.
- d. Remove the seals of gauge hatches and discharge valves of compartments. Removed seals shall be retained by Owner.

Note: The supplier's fire extinguisher shall be placed beside the discharge point prior to opening the emergency valve levers of the assigned compartments. The fire extinguisher must be left in place until completion of the discharge.

- e. Open compartment gauge hatches and check for the following:
- ITDI seal and supplier seal on gauge marker are intact and gauge marker is completely welded to the gauge rod. If there are doubts, take measurements of gauge marker distance and compare these measurements with the ITDI calibration certificate. In case the gauge marker of the calibrator is found movable or measurements made do not conform with the ITDI Calibration Certificate figures, the delivery shall be rejected, noted in the invoice and acknowledged by the supplier's representative.
 - Product level in each compartment at least coincides with gauge marker. If product level is below the gauge marker, reject the delivery or compartment (s) in question.
- f. Check presence of water in the compartments by requesting the supplier's representative to drain some product from the discharge valve of each assigned compartment into a container. If water is noted, request the supplier's representative to continue draining until no visible water is observed or reject the delivery or compartment (s) in question if drained water is considerable. Otherwise, determine the water drained, note the quantity on the invoice and have this acknowledge by the supplier's representative.

- g. Measure and record the average ambient temperature and the volume of Fuel in all tank compartments. Indicate the average temperature in supplier's invoice.
- h. Get a representative sample from all compartments and composite into one (1) liter sample for retention and reference.

Note: Operator reserves the right to perform Fuel quality analysis prior to discharge of the Fuel to the receiving tank. If Fuel quality analysis shows that the Fuel is not within acceptable limits, the delivery shall be rejected. The methods of analysis to be performed are described in 12.a.

- 4. After confirming the acceptability and volume of the Fuel Delivery, Operator shall conduct the following in the presence of the Owner and supplier representative:

- a. Line-up the receiving valves and ensure that receiving line is completely filled-up down to the receiving check valve.
- b. Ensure that all water draw-off, drain, tie and suction valves are closed.
- c. Take opening soundings (including water cut) and density/temperature of Fuel in the receiving tank.
- d. Line-up Fuel transfer pump valves and take initial reading of receiving line Fuel meter (if available)
- e. Request Fuel transfer pump and ensure that there is no leak on the receiving line and connections.

Note: Operator, Owner and supplier representatives shall be at the Fuel Transfer Pump area to keep close watch over the Fuel transfer operations.

- 5. Upon advice from the supplier's representative that the discharging has been completed, Operator shall stop FUEL transfer and completely close all receiving valves.

Note: If there is no succeeding Fuel delivery, seal or padlock receiving tank filling valve.

- 6. Once the above actions have been completed, Operator and Owner shall perform the following:

- a. Have the supplier's representative remove their discharge hose (while emergency valve and discharge valve levers are open) to show that tank truck/lorry is already empty.
- b. Open compartment gauge hatches again to visually check compartments for dryness. If visual inspection shows that Fuel is still present in any compartment, have the tank truck make sudden forward and backward movements (at least 3 times) while discharge valves are closed and emergency valves are open. Then, drain out any leftover Fuel in pails or buckets.

Note: Drained Fuel shall be loaded into the next delivery tank truck/lorry after ensuring actual Fuel volume of the delivery.

- c. After the required settling time (minimum of 6 hours), measure and record the receiving tank closing soundings (including water cut), and observed temperature/density of the Fuel in the receiving tank. To ensure accuracy and repeatability, Fuel and water soundings shall be performed until consistent readings are obtained. Then, compute the received Fuel volume using data from opening and closing soundings and tank calibration table.

Note: In case of simultaneous and successive Fuel Deliveries, the above described closing activities shall be performed immediately upon completion of the Fuel discharging operations. It is however understood that each delivery shall be supported by a separate Fuel Receiving/Turnover Report. The first report shall indicate the opening soundings while the last will indicate the closing soundings, the as-received volume and the variance analysis.

7. The measurement of Fuel delivered when sounding of receiving tank is not possible due to Power Complex conditions, such as non-isolation of receiving tank, shall be based on the measured volume under Appendix 7.B.3.g.
8. The following documents shall be generated for signature of concerned personnel or representatives:
 - a. Truck Loading Receipt
 - b. Certificate of Quantity Delivered
 - c. Certificate of Analysis
 - d. NIST Calibration Certificate
 - e. Owner Fuel Receiving/Turnover Report
9. If there is considerable discrepancy between the delivered volume as reflected in the supplier's invoice minus any drained water (as determined in Section 6.c above), and the received volume based on tank soundings, Operator and Owner should undertake the following:
 - a. Revalidate receiving tank sounding measurements and recheck correctness of valve line-up including condition of physical facilities.
 - b. If the tank-truck for a lone delivery is still around, hold it for thorough inspection or investigation and notify the concerned supplier.
10. Prior to releasing the tank truck, the prepared Fuel Receiving/Turnover Report shall be signed by Owner, Operator and supplier representatives.
11. Operator shall ensure that all compartments of the tank truck are empty once it passes thru the security entrance/exit gate of the Power Complex.

Time of exit shall be indicated in the supplier's invoice and documented in the Security Logbook. On the other hand, any unusual observation shall be sufficient reason for holding the tank truck.

12. Coinciding with daily midnight inventory takings, Operator shall get Fuel samples in the receiving tank for quality analysis. The results of the analysis shall be compared with the previous results of analysis of the preceding day. If there is considerable degradation in its quality compared to the previous day analysis, the retained samples for the current day shall be subjected to quality analysis to identify which tank truck delivery contributed to the significant Fuel quality change. The identified tank truck delivery shall be advised to Owner for appropriate action or advised to the supplier.

Note: In case there is no significant deterioration in the quality of the Fuel in the receiving tank samples retained for reference may be returned to the receiving tank.

- a. For quality analysis of Diesel Oil, the following ASTM Test Methods shall be applied:

Properties	Test Method	Description
API @ 60°F	ASTM D-287	API Gravity of crude petroleum and petroleum products (Hydrometer Method)
Density @ 15°C	ASTM D-1298	Density, Relative density or API gravity of crude and liquid petroleum products by Hydrometer Method
Viscosity	ASTM D-445	Kinematic Viscosity of Transparent and Opaque liquids
Flash Point	ASTM D-93	Flash Point by Pensky-Martens closed tester
Pour Point	ASTM D-97	Pour Point of Petroleum Oils.
Sulfur Content	ASTM D-4294	Sulfur Content of Petroleum products
Gross Heating value, HHV	ASTM D-240 / D-4809 / D-4868	Gross Heating Value of Petroleum products
Bottom Sediment and Water	ASTM D-2709	Water and Sediments in Crude Oils and Fuel Oils.

13. All documents received and generated by Operator for each delivery shall be immediately forwarded to Owner for valuation or review and processing of claims together with documents directly submitted by the supplier or tank truck contractor. Copies of the Owner Fuel Receiving/Turnover Report and the invoice of the Fuel delivery shall be retained by Operator for reference in the preparation of their monthly Fuel Consumption and Inventory Report (FOCIR).

C. OPERATOR'S OBLIGATIONS

1. Conduct daily fuel inventory and consumption and provide copy of the report to the Owner.
2. Ensure availability of Operator personnel during fuel deliveries.
3. Conduct Annual Fuel Oil Inventory.
4. Maintain security and good housekeeping of the Fuel stocks. Security shall, among other things, refer to protection against theft or pilferage, while good housekeeping shall refer to reasonable measures taken for the maintenance and cleaning of the tank farm, including reasonable measures taken against leaks, spillage and clogged sumps and drainages.
5. Responsible for the safety and integrity of the fuel receiving, handling and storage facilities including the contents thereof and all the valves and metering devices.

D. OWNER'S OBLIGATIONS

1. Provide Monthly Price Build-up Report to the Operator.
2. Provide Notice of Delivery to Operator at least two (2) days in advance.
3. Prepare Fuel Order to Supplier copy furnished Operator.
4. Witness Annual Fuel Oil Inventory.

APPENDIX 8: PSALM-OWNED GENERAL PLANT EQUIPMENT

LINE ITEM	PARTICULARS	UOM	QTY	LOCATION
1	BOAT NO. 1, unserviceable	LOT	1	Near Tennis and Basketball Court
2	BOAT NO. 2, WORK BOAT, 121 GRP MONO HULL WITH FORWARD CABIN	LOT	1	Unloading Dock
3	BACK HOE, Komatsu operational at Unloading Dock	UNIT	1	Unloading Dock
4	PORTABLE COMPRESSOR, Atlas Copco, unserviceable.	UNIT	1	Motorpool Area
5	FORK LIFT, Toyota, unserviceable.	UNIT	1	Motorpool Area
6	LATHE MACHINE NO. 3, Meuser Co.	UNIT	1	Machine Shop
7	SHAPER, Type DS-36, Dainichi KNZOK, Kogyo Co. LTD.	UNIT	1	Machine Shop
8	BENCH GRINDER, Creusen, Roemmond, Holland	UNIT	1	Machine Shop
9	BENCH GRINDER, No name plate	UNIT	1	Machine Shop
10	MILLING MACHINE, Enshu	UNIT	1	Machine Shop
11	RADIAL BORING MACHINE, Meuser Co., M70R	UNIT	1	Machine Shop
12	LATHE MACHINE NO.1, Meuser Co.	UNIT	1	Machine Shop
13	HYDRAULIC PRESS, Bley Geratebau	UNIT	1	Machine Shop
14	BENCH VISE GRIP, Record, attached to Steel Plated Table	UNITS	2	Machine Shop
15	GASKET CUTTING MACHINE, Attached to Steel Plated Table	UNIT	1	Machine Shop
16	DRILLING MACHINE, Rockwell	UNIT	1	Machine Shop
17	METAL CUTTING POWER SAW, No name plate	UNIT	1	Machine Shop
18	LATHE MACHINE NO. 2, MEUSER CO.	UNIT	1	Machine Shop

APPENDIX 9: AMENDMENT TO ORDER REQUEST FORM

Amendment to Order No.:		
Date of Request:		
Equipment Name:		
Equipment Problem:		
Parts to be replaced:		
Date of Breakdown:		Date Required:
1.	Equipment Specifications / Operating Condition:	
2.	Detailed Equipment Problem:	
<p>a. Root Cause of the Problem: _____ _____ _____</p> <p>b. Effect to the Plant/system: _____ _____ _____</p> <p>c. Recommendations: _____ _____ _____</p>		
3.	Maintenance and Operating Records:	
<p>a. Date of Previous Replacement / Repair: _____ _____ _____</p> <p>b. Parts Replaced: _____ _____ _____</p>		
4.	Photo Documentation:	
Please attach photographs of equipment/parts.		
5.	Cost Estimate:	
Note: 1. Submit at least three (3) quotations from suppliers/contractor 2. Cost must be inclusive of VAT		
Prepared by:	Reviewed by:	Approved by:
_____	_____	_____

Section VIII. Bidding Forms

SECTION VIII. BIDDING FORMS

FORM No.	Description
ELIG-01	LIST OF ALL ONGOING GOVERNMENT & PRIVATE CONTRACTS INCLUDING CONTRACTS AWARDED BUT NOT YET STARTED
ELIG-02	STATEMENT OF ALL GOVERNMENT & PRIVATE CONTRACTS COMPLETED WHICH ARE SIMILAR IN NATURE AND COMPLEXITY TO THE CONTRACT TO BE BID
ELIG-03	FINANCIAL DOCUMENTS FOR ELIGIBILITY CHECK
ELIG-04	JOINT VENTURE AGREEMENT
ELIG-05	CONFORMITY WITH SECTION VI. SCHEDULE OF REQUIREMENTS AND SECTION VII. TECHNICAL SPECIFICATION
TEC-01	FORM OF BID SECURITY (BANK GUARANTEE)
TEC-02	AUTHORITY OF SIGNATORY - SPECIAL POWER OF ATTORNEY
TEC-03	AUTHORITY OF SIGNATORY - SECRETARY'S CERTIFICATE
TEC-04	BID SECURING DECLARATION
TEC-05	FORM OF BID SECURITY (IRREVOCABLE LETTER OF CREDIT)
FIN-01	BID FORM
FIN-01A	SCHEDULE OF PRICES
PSALM-01	CONTRACT AGREEMENT FORM
PSALM-02	OMNIBUS SWORN STATEMENT
PSALM-03	PERFORMANCE SECURITY - SBLC
PSALM-04	CREDIT LINE CERTIFICATE

Checklist of Eligibility Requirements for Bidders

The FIRST ENVELOPE shall contain the following:

a) Eligibility Documents

CLASS "A" DOCUMENTS

- PhilGEPS Certificate of Registration and Membership in accordance with Section 8.5.2 of the IRR.
- Statement of all its ongoing and completed government and private contracts within the period stated in the BDS, including contracts awarded but not yet started, if any (*Form No.: ELIG - 01 and ELIG - 02*);
- NFCC computation in accordance with ITB Clause 5.5 (*Form No.: ELIG - 03*) or a committed Line of Credit from a universal or commercial bank (*Form No.: PSALM - 04*); and

CLASS "B" DOCUMENTS

- If applicable, the Joint Venture Agreement (JVA) in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners in accordance with Section 23.1(b) of the IRR.
 - o Special power of attorney signed by legally authorized signatories of all the JV partners authorizing 1 member firm as the lead partner of the JV. (*Form No.: TEC - 02*)

b) Technical Documents

- The Bid Security, in accordance with Section II-Instructions to Bidders Clause 18, shall be any of the following:
 - Bid Securing Declaration (*Form No.: TEC - 04*)
 - Cash or cashier's/manager's check issued by a Universal or Commercial Bank - 2% of ABC
 - Bank Guarantee - 2% of ABC (*Form No.: TEC - 01*)
 - Irrevocable letter of credit - 2% of ABC (*Form No.: TEC - 05*)
 - Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security- 5% of ABC
- Conformity with technical specifications, as enumerated and specified in Sections VI and VII of the Bidding Documents (*Form No.: ELIG-05*).
- Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in Section VIII. Bidding Forms (*Form No.: PSALM-02*).

- ❑ For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.

The SECOND ENVELOPE shall contain the following:

Financial Documents

- ❑ Duly Signed and completed Bid Letter Form (*Form No. FIN - 01*)
- ❑ Duly Signed and completed Schedule of Prices (*Form No. FIN - 01A*).
- ❑ If the Bidder claims preference as a Domestic Bidder, a certification from the DTI issued in accordance with ITB Clause 27.

List of all Ongoing Government & Private Contracts including contracts awarded but not yet started

Business Name : _____

Business Address : _____

Name of Contract/ Project Cost	a. Owner's Name b. Address c. Telephone Nos.	Nature of Work	Bidder's Role		a. Date Awarded b. Date Started c. Date of Completion	% of Accomplishment		Value of Outstanding Works / Undelivered Portion
			Description	%		Planned	Actual	

Note: The following documents shall be submitted upon post-qualification:

1. Notice of Award and/or Contract
2. Notice to Proceed issued by the owner
3. Certificate of Accomplishments signed by the owner or authorized representative.

Submitted by : _____

(Printed Name & Signature)

Designation : _____

Date : _____

Statement of all Government & Private Contracts completed which are similar in nature and complexity to the Contract to be Bid

Business Name : _____

Business Address : _____

Name of Contract	a. Owner's Name b. Address c. Telephone Nos.	Nature of Work	Bidder's Role		a. Amount at Award b. Amount at Completion c. Duration	a. Date Awarded b. Contract Effectivity c. Date Completed
			Description	%		

Note: The following documents shall be submitted upon post-qualification:

1. Contract
2. Certificate of Completion
3. Certificate of Acceptance

Submitted by : _____

(Printed Name & Signature)

Designation : _____

Date : _____

Financial Documents for Eligibility Check

A. Summary of the Applicant Supplier’s/Distributor’s/Manufacturer’s assets and liabilities on the basis of the income tax return and audited financial statement, stamped “RECEIVED” by the Bureau of Internal Revenue (BIR) or BIR authorized collecting agent, for the immediately preceding year and a certified copy of Schedule of Fixed Assets particularly the list of construction equipment.

		Year 20__
1.	Total Assets	
2.	Current Assets	
3.	Total Liabilities	
4.	Current Liabilities	
5.	Net Worth (1-3)	
6.	Net Working Capital (2-4)	

B. The Net Financial Contracting Capacity (NFCC) based on the above data is computed as follows:

NFCC = [(Current asset - current liabilities) x 15] minus value of all outstanding or uncompleted portions of the project under ongoing contracts yet to be started coinciding with the contract to be bid.

or

Commitment from a licensed bank to extend to it a credit line if awarded the contract.

Name of Bank: _____ Amount: _____

Submitted by:

Name of Supplier / Distributor / Manufacturer

Signature of Authorized Representative
Date: _____

Joint Venture Agreement

KNOW ALL MEN BY THESE PRESENTS:

That this JOINT VENTURE AGREEMENT is entered into By and Between _____, of legal age, (civil status), owner/proprietor of _____ and a resident of _____.

- and -

_____ of legal age, (civil status), owner/proprietor of _____ a resident of _____.

That both parties agree to join together their manpower, equipment, and what is needed to facilitate the Joint Venture to participate in the Eligibility, Bidding and Undertaking of the here-under stated project to be conducted by the PSALM Corporation.

NAME OF PROJECT

CONTRACT AMOUNT

That both parties agree to be jointly and severally liable for the entire assignment.

That both parties agree that Mr./Ms. _____ and/or _____ shall be the Official Representative of the Joint Venture, and is granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Joint Venture in the bidding as fully and effectively and the Joint Venture may do and if personally present with full power of substitution and revocation.

That this Joint Venture Agreement shall remain in effect only for the above stated Project until terminated by both parties.

Name and Signature of Authorized Representative

Name and Signature of Authorized Representative

Official Designation

Official Designation

Name of Firm

Name of Firm

Witnesses

1. _____

2. _____

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
_____)S.S.

BEFORE ME, a Notary Public for and in _____, Philippines, this _____ day of _____, 2018, personally appeared:

Name	Identification Document	Issued on	Issued at

known to me and known to be the same persons who executed the foregoing instrument consisting of _____ () pages, including the page whereon the acknowledgment is written and acknowledged before me that the same is their free and voluntary act and deed and/or that of the corporation/entity they represent.

WITNESS MY HAND AND NOTARIAL SEAL, at the place and on the date first above written.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2018.

**Conformity with Section VI (Schedule of Requirements) and
Section VII (Technical Specifications)**

I/We conform with Section VI (Schedule of Requirements) and shall comply with Section VII (Technical Specifications) for the Procurement of Operation and Maintenance Service Contract (Project Reference No. 2018-PB-OMSC-MTPP-007-02).

IN WITNESS WHEREOF, I/we have hereunto set my/our hands this ___ day of _____ 2018 at _____.

Name of Company

Name and Signature of Authorized Official

Position

Date

Republic of the Philippines)
_____) s.s.

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in _____, Philippines, this ___ day of _____, 2018, personally appeared:

Name	Identification Document	Issued on	Issued at
(SUPPLIER)			

known to me and to me known to be the same person who executed the foregoing instrument consisting of _____ () pages, including the page whereon this Acknowledgment is written, all pages signed by both parties and their instrumental witnesses, and they acknowledged before me that the same is their free and voluntary act and deed and that of the Corporation they represent.

WITNESS MY HAND AND NOTARIAL SEAL, on the date and place first above written.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2018.

BANK LOGO

Form of Bid Security (Bank Guarantee)

WHEREAS, *[insert name of bidder]* (hereinafter called the "bidder") has submitted his bid dated *[insert date]* for the *[insert name of contract]* (hereinafter called the "Bid").

KNOW ALL MEN by these presents that We *[insert name of Bank]* of *[insert name of Country]* having our registered office at *[insert address]* (hereinafter called the "Bank" are bound unto PSALM Corporation (hereinafter called the "Entity") in the sum of *[insert amount]*¹ for which payment well and truly to be made to the said Entity the Bank binds himself, his successors and assigns by these presents.

SEALED with the Common Seal of the said Bank this _____ day of _____ 20____.

THE CONDITIONS of this obligation are:

1. If the bidder:
 - (a) withdraws his Bid during the period of bid validity specified in the Form of Bid; or
 - (b) does not accept the correction of arithmetical errors of his bid price in accordance with the Instructions to bidder; or
2. If the bidder having been notified of the acceptance of his bid by the Employer during the period of bid validity:
 - (a) fails or refuses to execute the Contract Form in accordance with the Instructions to bidders, if required; or
 - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to bidders.

We undertake to pay to the Entity up to the above amount upon receipt of his first written demand, without the Entity having to substantiate his demand, provided that in his demand the Entity will note that the amount claimed by him is due to him owing to the occurrence of one or both of the two (2) conditions, specifying the occurred condition or conditions.

The Guarantee will remain in force up to and including the date *[insert days]*¹ days after the deadline for submission of Bids as such deadline is stated in the Instructions to bidders or as it may be extended by the Entity, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE _____ SIGNATURE OF THE BANK _____

WITNESS _____ SEAL _____

(Signature, Name and Address)

¹ Usually 28 days after the end of the validity period of the Bid. Date should be inserted by the Entity before the bidding documents are issued.

AUTHORITY OF SIGNATORY

SPECIAL POWER OF ATTORNEY

I, _____, President of _____, a corporation incorporated under the laws of _____ with its registered office at _____, by virtue of Board Resolution No. _____ dated _____, has made, constituted and appointed _____ true and lawful attorney, for it and its name, place and stead, to do, execute and perform any and all acts necessary and/or represent _____ in the bidding of Procurement of the Operation and Maintenance Service Contract for the Malaya Thermal Power Plant located in Pililla, Rizal Philippines as fully and effectively as corporation might do if personally present with full power of substitution and revocation and hereby confirming all that said representative shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20____ at _____.

Signed in the Presence of:

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) s.s.

BEFORE ME, a Notary Public for and in _____, Philippines, this _____ day of _____, 2018, personally appeared:

Name	Identification Document	Issued on	Issued at

known to me and known to be the same person who executed the foregoing instrument consisting of _____ () pages, including the page whereon the acknowledgments are written and acknowledged before me that the same is his free and voluntary act and deed and that of the Corporation he represents.

WITNESS MY HAND AND NOTARIAL SEAL, at the place and on the date first above written.

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of 2018.

AUTHORITY OF SIGNATORY

SECRETARY'S CERTIFICATE

I, _____, a duly elected and qualified Corporate Secretary of _____, a corporation duly organized and existing under and by virtue of the law of the _____, DO HEREBY CERTIFY, that:

I am familiar with the facts herein certified and duly authorized to certify the same;

At the regular meeting of the Board of Directors of the said Corporation duly convened and held on _____ at which meeting a quorum was present and acting throughout, the following resolutions were approved, and the same have not been annulled, revoked and amended in any way whatever and are in full force and effect on the date hereof:

RESOLVED, that _____ be, as it hereby is, authorized to participate in the bidding of Procurement of the Operation and Maintenance Service Contract for the Malaya Thermal Power Plant located in Pililla, Rizal by the Power Sector Assets and Liabilities Management Corporation; and that if awarded the project shall enter into a contract with the Power Sector Assets and Liabilities Management Corporation; and in connection therewith hereby appoint _____, acting as duly authorized and designated representatives of _____, are granted full power and authority to do, execute and perform any and all acts necessary and/or to represent _____ in the bidding as fully and effectively as the _____ might do if personally present with full power of substitution and revocation and hereby satisfying and confirming all that my said representative shall lawfully do or cause to be done by virtue hereof;

RESOLVED FURTHER THAT, the _____ hereby authorizes _____ to:

- (1) execute a waiver of jurisdiction whereby the _____ hereby submits itself to the jurisdiction of the Philippine government and hereby waives its right to question the jurisdiction of the Philippine courts;
- (2) execute a waiver that the _____ shall not seek and obtain writ of injunctions or prohibition or restraining order against PSALM or any of its executives, personnel and staffs in connection with this project to prevent and restrain the bidding

procedures related thereto, the negotiating of and award of a contract to a successful bidder, and the carrying out of the awarded contract.

WITNESS the signature of the undersigned as such officer of the said _____ this _____.

(Corporate Secretary)

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) s.s.

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2018
affiant exhibited to me his/her _____ issued on
_____ at _____, Philippines.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2018.

REPUBLIC OF THE PHILIPPINES)
CITY OF _____) S.S.

Bid-Securing Declaration

Invitation to Bid for Project Reference No. 2018-PB-OMSC-MTPP-007-02

To: **IRENE JOY BESIDO-GARCIA**
President and CEO
Power Sector Assets and Liabilities
Management Corporation
3/F National Transmission Corporation (TransCo) Bldg.
Power Center, Quezon Avenue cor. BIR Road
Diliman, Quezon City 1101

I/We, the undersigned, declared that:

1. I/We understand that, according to your conditions, bids must be supported by a Bid Security, which may be in the form of a Bid-Securing Declaration.
2. I/We accept that: (a) I/we will be automatically disqualified from bidding for any contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Bid Securing Declaration; if I/we have committed any of the following actions:
 - (i) Withdrawn my/our Bid during the period of bid validity required in the Bidding Documents; or
 - (ii) Fail or refuse to accept the award and enter into contract or perform any and all acts necessary to the execution of the Contract, in accordance with the Bidding Documents after having been notified of your acceptance of our Bid during the period of bid validity.
3. I/We understand that this Bid-Securing Declaration shall cease to be valid on the following circumstances:
 - (a) Upon expiration of the bid validity period, or any extension thereof pursuant to your request;
 - (b) I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to

timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right;

- (c) I am/we are declared as the bidder with the Lowest Calculated and Responsive Bid/Highest Rated and Responsive Bid, and I/we have furnished the performance security and signed the Contract.

IN WITNESS WHEREOF, I/we have hereunto set my/our hands this ___ day of _____ 2018 at _____.

[Insert NAME OF BIDDER'S AUTHORIZED REPRESENTATIVE]
[Insert signatory's Legal capacity]
Affiant

SUBSCRIBED AND SWORN to before me this ___ day of *[month]* *[year]* at *[place of execution]*, Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her *[insert type of government identification card used]*, with his/her photograph and signature appearing thereon, with no. _____.

Witness my hand and seal this ___ day of _____ 2018.

NAME OF NOTARY PUBLIC

Serial No. of Commission _____
Notary Public for _____ until _____
Roll of Attorneys No. _____
PTR No. _____ *[date issued]*, *[place issued]*
IBP No. _____ *[date issued]*, *[place issued]*

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2018.

Form of Bid Security (Irrevocable Letter of Credit)

Date: _____

OFFICE OF THE PRESIDENT AND CEO
Power Sector Assets and Liabilities Management Corporation
3/F National Transmission Corporation (TransCo) Bldg.
Power Center, Quezon Avenue cor. BIR Road
Diliman, Quezon City 1101

Irrevocable Letter of Credit No. _____
For Contract No. _____

WHEREAS, _____, hereinafter called "Supplier" has undertaken in pursuance to (name of Project and contract number), and whereas it has been stipulated by you in the said Contract that the Supplier shall furnish an irrevocable standby Letter of Credit for a sum specified therein as security for the faithful compliance of Supplier's obligations in accordance with the Contract.

WHEREAS, we have agreed to guarantee this obligation by Supplier.

THEREFORE, we hereby affirm that we are guarantors and responsible to you, on behalf of Supplier, up to the total amount of _____ and we undertake to pay you, upon first written demand declaring the Supplier to be in default under the Contract and without cavil, or argument, any sum or sums within the limits of (amount of guarantee) as aforesaid, without you needing to prove or to show grounds or reasons for your demand for the sum specified therein.

This irrevocable guarantee is valid until the issuance by you of Notice of Final Acceptance.

This certification is being issued in favor of the said Supplier in connection with the requirements of bidding of (name of the procuring entity) for the above-mentioned contract. We are aware that any false statements issued by us makes us liable for perjury.

Name and Signature of Authorized

Financing Institution Officer : _____

Official Designation : _____

Concurred By:

Name & Signature of Supplier's

Authorized Representative : _____

Official Designation : _____

Note:

The amount committed should be machine validated.

Republic of the Philippines)
_____) s.s.

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in _____, Philippines, this ___ day of _____, 2018, personally appeared:

Name	Government-Issued ID & No.	Issued on	Issued at
(SUPPLIER)			

known to me and to me known to be the same person who executed the foregoing instrument consisting of _____ () pages, including the page whereon this Acknowledgment is written, all pages signed by both parties and their instrumental witnesses, and they acknowledged before me that the same is their free and voluntary act and deed and that of the Corporation they represent.

WITNESS MY HAND AND NOTARIAL SEAL, on the date and place first above written.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2018.

Bid Form

Date: _____

To: **IRENE JOY BESIDO-GARCIA**
 President and CEO
 Power Sector Assets and Liabilities
 Management Corporation
 3/F National Transmission Corporation (TransCo) Bldg.
 Power Center, Quezon Avenue cor. BIR Road
 Diliman, Quezon City 1101

Gentlemen and/or Ladies:

Having examined the Bidding Documents including Bid Bulletin Numbers *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to perform Operation and Maintenance of the Procurement of the Operation and Maintenance Service Contract for the Malaya Thermal Power Plant located in Pililla, Rizal in conformity with the said Bidding Documents for the sum of *[total Bid amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Bid is accepted, we undertake to provide a performance security in the form, amounts, and within the times specified in the Bidding Documents.

We agree to abide by this Bid for the Bid Validity Period specified in **BDS** provision for ITB Clause 17.1 and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your Notice of Award, shall be binding upon us.

We understand that you are not bound to accept the lowest or any Bid you may receive.

We certify/confirm that we complied with the eligibility requirements as per ITB Clause 5 of the Bidding Documents.

We likewise certify/confirm that the undersigned, *[for sole proprietorships, insert: as the owner and sole proprietor or authorized representative of Name of Bidder, has the full power and authority to participate, submit the bid, and to sign and execute the ensuing contract, on the latter's behalf for the Name of Project of the Name of the Procuring Entity]* *[for partnerships, corporations, cooperatives,*

or joint ventures, insert: is granted full power and authority by the Name of Bidder, to participate, submit the bid, and to sign and execute the ensuing contract on the latter's behalf for Name of Project of the Name of the Procuring Entity.

We acknowledge that failure to sign each and every page of this Bid Form, including the attached Schedule of Prices, shall be a ground for the rejection of our bid.

Dated this _____ day of _____ 2018.

[signature]

[in the capacity of]

Duly authorized to sign Bid for and on behalf of _____

SCHEDULE OF PRICES

Date: _____

Project : Procurement of the Operation and Maintenance Service Contract for the Malaya Thermal Power Plant located in Pililla, Rizal (Project Reference No. 2018-PB-OMSC-MTPP-007-02)

Name of Bidder: _____.

PARTICULARS	RATE (A)	VAT (B) ($B = A * 0.12$)	AMOUNT OF BID (PHP) (A + B)
(1) Service Fee	PHP _____	PHP _____	PHP _____
(2) Operating Fee*	PHP _____	PHP _____	PHP _____
(3) Total Financial Bid (1 + 2)			PHP _____

Total Financial Bid in Words:

Name and Signature of Authorized Official_____
Position_____
Date*Notes:*

The Approved Budget for the Contract, including applicable tax, is **TWO HUNDRED THIRTEEN MILLION PESOS (PhP213,000,000.00)**.

Any bid exceeding the ABC or any of the financial components below, including applicable tax, shall not be accepted:

- (a) Fixed Service Fee: **ONE HUNDRED NINETY-THREE MILLION EIGHT HUNDRED THIRTY THOUSAND PESOS (PhP193,830,000.00)**;
- (b) Operating Fee: **NINETEEN MILLION ONE HUNDRED SEVENTY THOUSAND PESOS (PhP19,170,000.00)**.

* The Operating Fee shall be computed based on the 1,900 hours. The total estimated Operating Hours per year of 1,900 hours is for bid comparison purposes and should not be modified by the Bidder.

VAT should be derived from the gross amounts of the "Rate" components of Service and Operating Fees, in compliance with Title IV, Chapter I, Section 108 of the National Internal Revenue Code of 1997.

FORM No.: PSALM - 01

CONTRACT

THIS CONTRACT made the ____ day of _____ 2018 between POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT (PSALM) CORPORATION with principal address at the 3/F National Transmission Corporation (TransCo) Bldg., Power Center, Quezon Ave. cor. BIR Road, Diliman, Quezon City, represented by its President and CEO, IRENE JOY BESIDO-GARCIA (hereinafter called "PSALM") and *[name of Supplier]* of *[city and country of Supplier]* (hereinafter called "the Supplier"):

WHEREAS the PSALM invited Bids for certain Goods and Ancillary Services, viz., Procurement of the Operation and Maintenance Service Contract for the Malaya Thermal Power Plant located in Pililla, Rizal (Project Reference No. 2018-PB-OMSC-MTPP-007-02), and has accepted a Bid by the Supplier for the supply of those Goods and Services in the sum of *[contract price in words and figures]* (hereinafter called "the Contract Price").

WITNESSETH:

1. In this Contract words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Contract, viz.:
 - (a) the Bid Form and the Price Schedule submitted by the Bidder;
 - (b) the Schedule of Requirements;
 - (c) the Technical Specifications;
 - (d) the General Conditions of Contract;
 - (e) the Special Conditions of Contract;
 - (f) the Entity's Notification of Award; and
 - (g) the Supplemental Bid Bulletin, if any.
3. In consideration of the payments to be made by PSALM to the Supplier as hereinafter mentioned, the Supplier hereby covenants with PSALM to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. PSALM hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the time and in the manner prescribed by the contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.

Signed, sealed, and delivered by IRENE JOY BESIDO-GARCIA, President and CEO of PSALM Corporation.

IRENE JOY BESIDO-GARCIA

Signed, sealed, and delivered by _____, the
_____ (for the Supplier).

(Supplier)

Witnessed by:

Certification of funds availability:

YOLANDA D. ALFAFARA
Manager
Controllership Department

Republic of the Philippines)
_____) s.s.

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in _____, Philippines, this ___ day of _____, 2018, personally appeared:

Name	Identification Document	Issued on	Issued at
IRENE JOY BESIDO-GARICA			
(SUPPLIER)			

known to me and to me known to be the same person who executed the foregoing instrument consisting of three (3) pages, including the page whereon this Acknowledgment is written, all pages signed by both parties and their instrumental witnesses, and they acknowledged before me that the same is their free and voluntary act and deed and that of the Corporation they represent.

WITNESS MY HAND AND NOTARIAL SEAL, on the date and place first above written.

Notary Public

Doc. No. ____;
Page No. ____;
Book No. ____;
Series of 2018.

Omnibus Sworn Statement

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S.

AFFIDAVIT

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

1. *Select one, delete the other:*

If a sole proprietorship: I am the sole proprietor of *[Name of Bidder]* with office address at *[address of Bidder]*;

If a partnership, corporation, cooperative, or joint venture: I am the duly authorized and designated representative of *[Name of Bidder]* with office address at *[address of Bidder]*;

2. *Select one, delete the other:*

If a sole proprietorship: As the owner and sole proprietor of *[Name of Bidder]*, I have full power and authority to do, execute and perform any and all acts necessary to represent it in the bidding for *[Name of the Project]* of the *[Name of the Procuring Entity]*;

If a partnership, corporation, cooperative, or joint venture: I am granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the *[Name of Bidder]* in the bidding as shown in the attached *[state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate issued by the corporation or the members of the joint venture)]*;

3. *[Name of Bidder]* is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board;
4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
5. *[Name of Bidder]* is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

6. *Select one, delete the rest:*

If a sole proprietorship: I am not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

If a partnership or cooperative: None of the officers and members of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

If a corporation or joint venture: None of the officers, directors, and controlling stockholders of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

7. *[Name of Bidder]* complies with existing labor laws and standards; and
8. *[Name of Bidder]* is aware of and has undertaken the following responsibilities as a Bidder:
- a) Carefully examine all of the Bidding Documents;
 - b) Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
 - c) Made an estimate of the facilities available and needed for the contract to be bid, if any; and
 - d) Inquire or secure Supplemental/Bid Bulletin(s) issued for the *[Name of the Project]*.
9. *[Name of Bidder]* did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of ___, 2018 at _____, Philippines.

Bidder's Representative/Authorized Signatory

SUBSCRIBED AND SWORN to before me this ___ day of *[month]* *[year]* at *[place of execution]*, Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her *[insert type of government identification card used]*, with his/her photograph and signature appearing thereon, with no. _____ and his/her Community Tax Certificate No. _____ issued on ___ at _____.

Witness my hand and seal this ___ day of *[month]* *[year]*.

NAME OF NOTARY PUBLIC

Serial No. of Commission _____

Notary Public for _____ until _____

Roll of Attorneys No. _____

PTR No. _____ *[date issued]*, *[place issued]*

IBP No. _____ *[date issued]*, *[place issued]*

Doc. No. _____

Page No. _____

Book No. _____

Series of 2018.

PERFORMANCE SECURITY

(To be printed on Issuing Bank's letterhead)

IRREVOCABLE STANDBY LETTER OF CREDIT

Number: [●]
Amount: [●]
Stated Expiration Date: [●]
Account Party: [●]

Beneficiary:
Power Sector Assets and Liabilities Management Corporation
3/F National Transmission Corporation (TransCo) Building
Power Center, Quezon Ave. cor. BIR Road
Diliman, Quezon City 1101

Subject: Standby Letter of Credit No. [●]

We refer to the Operation and Maintenance Service Contract (the "OMSC") for the operation and maintenance of the *Procurement of the Operation and Maintenance Service Contract for the Malaya Thermal Power Plant located in Pililla, Rizal* for the twelve-month period starting [●].

We hereby establish this Irrevocable Standby Letter of Credit No. [●] (this "SBLC") for the benefit of Power Sector Assets and Liabilities Management Corporation (the "Beneficiary") in an amount not exceeding a total of [●] ([●]) (the "Drawing Amount"). Funds under this SBLC are available to you upon our receipt of a certificate in the form of Annex A attached hereto notifying us of the failure of [●] to fulfill the terms and conditions of the OMSC (a "Demand Certificate"), appropriately completed and purportedly signed by your duly authorized officer, employee or signatory, if such Demand Certificate is presented as hereinafter specified on or before the Expiration Date (as hereinafter defined). This SBLC does not contain any condition to drawing other than the confirmation by us that the Demand Certificate appears to comply on its face with the requirements of the immediately preceding sentence.

The SBLC shall be drawable at our office in Metro Manila, Philippines.

You shall present one Demand Certificate dated the date of presentation for each drawing hereunder to [●]. If you present the Demand Certificate by 10:00 a.m. local time on any day on which we are open for business (each such day, a "Business Day"), in strict conformance with the terms and conditions of this SBLC, we will honor the same by making payment in immediately available funds, in accordance with your payment instructions and without any restrictions, conditions, inquiry or right of objection whatsoever on our part, without notice to the Account Party prior to such payment and notwithstanding any conditions, demands, or objections by the Account Party or any other party, without you having to further substantiate

such demand, by 4:00 p.m. local time on such Business Day, otherwise we will honor your Demand Certificate by 10:00 a.m. local time the following Business Day.

If any demand for payment does not conform to the terms and conditions of this SBLC, we shall give you prompt notice of the same stating the reasons therefore and that we will, upon your request, hold any documents presented to us for five (5) Business Days or return the same to you. Upon being notified that any demand for payment did not conform to this SBLC, you may correct any such non-conforming demand; provided that such corrected demand shall be made and presented to us on or before the Expiration Date (as defined below).

This SBLC shall expire at 5:00 p.m. at our office on the earliest of the following: (i) the Stated Expiration Date; (ii) our honoring of the Demand Certificate/s presented hereunder that, in the aggregate, equal the Drawing Amount, and (iii) the surrender by you of the original SBLC for cancellation. The earliest of the foregoing dates is referred to herein as the "Expiration Date." Except as otherwise expressly provided in this paragraph, this SBLC shall not terminate prior to the Stated Expiration Date for any reason whatsoever. Notwithstanding the occurrence of the Stated Expiration Date, we will honor and pay for the amount drawn by you as stated in the Demand Certificate; provided, that the Demand Certificate was presented to us before the Expiration Date.

This SBLC sets forth in full our undertaking and references herein to any document, instrument or agreement, except the Demand Certificate/s referred to herein, shall not in any way amend, modify, amplify or limit our undertaking.

All documents presented to us in connection with any demand for payment hereunder, as well as all notices and other communications to us in respect of this SBLC shall be in writing and addressed and presented to us at our office at [address of issuing bank] Attention: [●], and shall make reference to this SBLC by number. You shall personally deliver such documents, notices and other communications to us or send them to us by facsimile to [●], or such other number as we may specify from time to time in writing to you.

This SBLC shall be subject to International Standby Practices 1998 ("ISP98") and in case of dispute arising from, or in connection with, the interpretation or implementation thereof, shall be subject to Philippine Law.

[Insert Date and Place issued]

Very truly yours, [Issuing Bank]

THIS ANNEX A IS AN INTEGRAL PART OF
LETTER OF CREDIT NO. [●]
DATED [●]

ANNEX A
DEMAND CERTIFICATE
[Date]

[Address of issuing bank]

Attention: [●]

Re: Demand for Payment under Letter of Credit

Ladies and Gentlemen:

We refer to your Letter of Credit No. [●] (the "SBLC"). Any term defined in the SBLC shall have the same meaning when used herein.

Please be advised that [●] failed to fulfill the terms and conditions of the OMSC with Effective Date as of [●].

In view of the foregoing, the Beneficiary hereby demands payment of [amount] under the SBLC, such payment to be made to [insert account instructions].

IN WITNESS WHEREOF, this Certificate has been executed and delivered by the Beneficiary on the [●] day of [●].

POWER SECTOR ASSETS AND LIABILITIES
MANAGEMENT CORPORATION

By: _____

Name:

Title:

Credit Line Certificate

Date: _____

OFFICE OF THE PRESIDENT AND CEO
Power Sector Assets and Liabilities
Management Corporation
3/F National Transmission Corporation Bldg.
Power Center, Quezon Ave., cor. BIR Road
Diliman, Quezon City

CONTRACT/PROJECT : _____

COMPANY/FIRM : _____
ADDRESS : _____

BANK/FINANCING INSTITUTION : _____
ADDRESS : _____

AMOUNT : _____

This is to certify that the above Bank/Financing Institution with business address indicated above, commits to provide the <Name and Address of the Contractor>, if awarded the above-mentioned Contract, a credit line in the amount specified above which shall be exclusively used to finance the performance of the above-mentioned contract subject to our terms, conditions and requirements.

The credit line shall be effective within fifteen (15) calendar days after receipt by the <Name of the Contractor> of the Notice of Award and such line of credit shall be maintained until the project is completed by the Supplier.

This Certification is being issued in favor of said <Name of the Contractor> in connection with the bidding requirement of Power Sector Assets and Liabilities Management Corporation for the above-mentioned Contract. We are aware that any false statements issued by us make us liable for perjury.

Name and Signature of Authorized Financing Institution Officer:

Official Designation: _____

Concurred By:

Name & Signature of <Contractor>

Authorized Representative : _____

Official Designation : _____

Note:

The amount committed should be machine validated.

Republic of the Philippines



Government Procurement Policy Board