



OMEKO COMPETITIVE SELECTION PROCESS 2019



DRAFT POWER SUPPLY AGREEMENT

OMEKO

OCCIDENTAL MINDORO ELECTRIC COOPERATIVE, INC.
411 Del Pilar St., San Jose, Occidental Mindoro

www.omeco.com.ph

POWER SUPPLY AGREEMENT

THIS POWER SUPPLY AGREEMENT (the "Agreement") is entered into this _____ day of _____ 20__ between:

OCCIDENTAL MINDORO ELECTRIC COOPERATIVE, INC. (OMECO), a non-stock, non-profit electric cooperative duly organized and existing under and by virtue of Presidential Decree No. 269, as amended, with principal office address at M. H. Del Pilar Street, Barangay Poblacion VI, San Jose, Occidental Mindoro, represented herein by its President, **RODOLFO A. PLOPINIO**, and NEA Project Supervisor/Acting General Manager, **CESAR E. FAELDON**, who are authorized to represent in this Agreement, hereinafter referred to as the "**Buyer**";

and

_____, a company organized and existing under the laws of the Philippines, with its principal office at _____, represented herein by its (President/CEO) _____, who is authorized to represent the company in this Agreement, hereinafter referred to as the "**Seller**".

Each of the **Seller** and the **Buyer** is individually referred to herein as the "**Party**", and collectively as the "**Parties**".

RECITALS:

WHEREAS, the Buyer is an electric cooperative with an issued franchise to engage in the distribution and supply of electricity in the Mainland Occidental Mindoro;

WHEREAS, the DOE Department Circular No. DC 2018-02-0003 "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market", requires a clear, transparent, and fair process that would promote competition and greater private sector participation in the provision of adequate generation capacity to meet the demand in the captive market as well as the full accountability of the DUs in the provision of affordable electricity prices to their captive market;

WHEREAS, the Department of Energy (DOE) Circular No. 2004-01-001 ("SPUG Circular") and the DOE Circular No. DC 2015-06-0008 mandate all Distribution Utilities (DU) to undergo Competitive Selection Process (CSP) in securing Power Supply Agreements (PSA) with least cost of electricity to consumers;

WHEREAS, pursuant to the aforesaid DOE's Circulars No. 2004-01-001, No. DC 2015-06-0008 and No. DC 2018-02-0003 and the ERC Resolutions No. 21, Series of 2005 and No. 13, Series of 2015, the Buyer had conducted a CSP for Short-Term Power Supply requirements for its franchise area of Mainland Occidental Mindoro;



WHEREAS, likewise, the ERC Resolution No. 21, Series of 2005, directs all DUs to enter into future bilateral power supply contract with power producers and the ERC Resolution No. 13, Series of 2015, requires all DUs to conduct a CSP in the procurement of their power supply to the captive markets;

WHEREAS, the Seller, a power supplier which participated in the CSP for the procurement of power supply conducted by the Buyer, was declared as the winning bidder and was awarded of the contract for the supply of ____ MW of power to _____;

WHEREAS, the Seller had accepted the award of the contract and the Parties have agreed to enter into a Power Supply Agreement (Agreement) that would govern the supply of ____ MW of power to _____;

NOW THEREFORE, in view of the foregoing premises, the Parties have agreed to enter into this Agreement under the following terms and conditions:

Section 1 Documents Comprising the Agreement

The following documents shall form part of the Agreement:

- a) The PSA itself;
- b) Bidding Documents;
- c) The Seller's Winning Bid and all other documents submitted;
- d) Performance Security; and
- e) Notice of Award of PSA.

Section 2 Definition of Terms

In this Agreement, each of the following terms has the meaning stated below, unless its context as used herein clearly indicates otherwise:

Agreement means this power supply agreement between the Seller and the Buyer based on the premises set forth in the preamble above.

Applicable Law refers to laws, statutes, orders, issuances, rule, ruling, code, decision, opinion or interpretation of a Government Authority pertinent to or affecting a Party or both Parties existing at the date of execution of this agreement.

Billing Dispute means the dispute between the Parties in relation to Section 17 of this Agreement.

Billing Month refers to the period commencing immediately after the inspection and recording of electricity meters on the 12 NN of the 25th day of each calendar month and ending upon the inspection and recording of electricity meters on the 12:00 NN of the 25th day of the next calendar month.



Capability and Availability Declaration refers to the data submitted by the Supplier for its scheduled generating unit. It includes the Declaration of Capability and Availability, Generation Scheduling and Dispatch Parameters.

Capacity Recovery Rate, Fixed Operations and Maintenance Rate, Variable Operations and Maintenance Rate, and Fuel Rate shall refer to such portion of the Total Fee to account for the Capital recovery and costs of operations and supply incurred by the Seller, computed in accordance with Schedule A.

Change in Applicable Law has the meaning set forth in Section 27.

Commercial Operations Date (COD) means the date whereby the NPP/s is obligated to supply the Net Dependable Capacity which is 26th of December 2021 or upon approval of Provisional Authority (PA) or Final Authority (FA).

Cooperation Period means the period commencing on the Commercial Operation Date and will terminate on 25th of December 2026.

Contract Price means the approved ERC rate for the Fixed and Variable Components of the Price Structure.

Contracted Capacity shall mean the Net Dependable Capacity Under Single Outage Contingency.

Confidential Information shall have the meaning and be governed under Section 24 of this Agreement.

Contract Year means any successive 12-month period in the Commercial Operations Period; provided that if this Agreement terminates on a day other than the end of any such 12-month period, the "Contract Year" with respect to such year means the portion of the year commencing on the day immediately following the end of the immediately preceding Contract Year until the termination date.

Defaulting Party shall mean the Party causing or suffering the Event of Default stated in Section 18 and Section 19 of this Agreement.

Delivery Points refers to the connection and metering points referred to in Schedule B.

Department of Energy or "DOE" refers to the government agency created pursuant to Republic Act No. 7638, as amended by Republic Act No. 9136.

Effective Date refers to the effectivity of the Power Supply Agreement which shall take effect upon the date of signing by both Parties.

Energy Regulatory Commission or "ERC" means the agency created under Section 38 of Republic Act No. 9136.



Events of Default shall refer to the events and circumstances identified in Section 18 and Section 19 of this Agreement.

Event of Force Majeure and Force Majeure shall mean any circumstance not within the reasonable control of Party affected; but only if, and to the extent that, such circumstances, despite the exercise of reasonable diligence, cannot be or caused to be prevented, avoided or removed by such Party, and is not attributable to the negligence or willful misconduct or the failure of such Party to perform any of its obligations.

Fees refers to the Monthly Total Fees computed in Schedule A of this Agreement.

Forced Outage refers to the failure of the Seller to deliver the contracted capacity due to unexpected breakdown of the generating unit and other facilities up to the delivery points.

Government Authority refers to any agency, office, authority, unit commission, department or political subdivision of the Republic of the Philippines, whether national, provincial, municipal or otherwise.

Government Consents shall refer to permits, licenses, agreements, orders, certificates, registrations, filings, authorizations, consents, and other approvals or clearances by, with or from a Government Authority (i.e., authority, commission, department, or political subdivision of the Republic of the Philippines, whether national, regional, provincial, municipal, or otherwise).

Indemnified Party shall refer to the Party required to be indemnified or compensated by the other in accordance with Section 28 of this Agreement.

Indemnifying Party shall refer to the Party required to indemnify or compensate the other in accordance with Section 28 of this Agreement.

National Electrification Administration or "NEA" refers to the government agency created under Presidential Decree 269, as amended.

National Power Corporation-Small Power Utilities Group or "NPC-SPUG" refers to the department or division in NPC that directly administers and performs the missionary electrification function of NPC pursuant to Section 70 of Republic Act No. 9136.

Net Dependable Capacity means the guaranteed capacity that is available at the Connection Point.

Payment Due Date shall mean the date not later than 1200 hours on the 25th day of the calendar month succeeding the applicable Billing Period stated in Section 15.4 of this Agreement.



Power Plant refers to the generating facility/ies owned, operated and maintained by Seller with the specification provided in Schedule C, including all associated equipment and accessories.

Reorganization and Insolvency as used in Section 18.3 and Section 19.3 shall refer to the status in which either Party becomes a subject of reorganization or passing a resolution by its shareholders or members for the bankruptcy, insolvency, winding up, liquidation of, or other similar proceeding; or the making of a court or agency having jurisdiction of an order winding up or otherwise confirming the bankruptcy or insolvency of a Party, which order has not been set aside or stayed.

Subsidized/Approved Generation Rate or "SAGR" refers to the generation tariff approved by the ERC pursuant to ERC Case No. 2004-449 to be charged to the Buyer by the Seller for the supply of electricity under this Agreement.

Termination Date refers to the date this Agreement expires, terminates or ceases to have effect under Section 20.4 of this Agreement.

Termination Notice refers to the written notice issued under Section 20.2 of this Agreement.

True Cost Generation Rate or "TCGR" refers to the total cost incurred by the Seller to generate the supply of electricity to Buyer.

Section 3 Rules of Interpretation

Unless otherwise the context in this agreement requires:

- 3.1 Contents.** All references to Sections, Schedules, and Attachments are references to the relevant Sections, Schedules, and Attachments to this Agreement.
- 3.2 Reference to Laws.** References in this Agreement to any Applicable Law shall be construed as a reference to such Applicable Law as the same may have been, or may from time to time be, amended, modified, consolidated or re-enacted; i.e., with respect to the consequences of a Change in Applicable Law without prejudice to Section 27 of this Agreement.
- 3.3 Enumerations, Non-limiting.** References to the word "include" or "including" are to be construed without limitation.
- 3.4 References to Currencies.** References to "PHP" are references to Philippine Pesos and references to "USD" are references to United States Dollars.
- 3.5 References to Dates and Time.** References to "month" or "year" shall mean, respectively, a calendar month or calendar year and Times of a Day, refer to Philippine time unless the context indicates otherwise.



- 3.6 Headings.** All headings are for reference only and shall not affect the construction or interpretation of this Agreement.

Section 4 Technical Meanings

- 4.1 Technical or Trade Meanings.** Words that are not specifically defined in this Agreement that have well-known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

Section 5 Precedence

- 5.1** In case of conflict between provisions in the Sections and Schedules of this Agreement, the provisions in the Sections shall take precedence in the construction and interpretation of such provisions.
- 5.2** Subject to the foregoing, if any requirement specified in Section conflicts with those of any other Sections, or if the requirement specified in any Schedule conflicts with any other requirement in such Schedule, the detailed requirement shall prevail. Notwithstanding, the above, the provisions of this Agreement, including all Schedules shall be as far as reasonable and practicable, construed as complementary rather than conflicting.

Section 6 Common Representations and Warranties of the Parties

The Parties hereby represent and warrant, which representations and warranties shall subsist for the Term of this Agreement:

- 6.1 Corporate Existence.** Buyer is an electric cooperative with issued franchise to engage in the distribution and supply of electricity to mainland Occidental Mindoro, and Seller is a power supplier duly organized, validly existing, in good standing and qualified to do business under the laws of the Philippines, and each holds corporate power and authority to enter into, perform and carry out all the respective obligations and covenants, under and pursuant to this Agreement.
- 6.2 Consents.** The execution, delivery and performance by each Party of this Agreement has been duly approved and authorized by all necessary corporate action. And does not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party of or any other person or entity, except approvals or consents which have been obtained or as set forth or expressly excepted herein.

The image shows three handwritten signatures in black ink. The first signature is on the left, the second is in the center, and the third is on the right. They appear to be initials or stylized names.

- 6.3 Full Force and Binding Agreement.** This Agreement is in full force and effect, has been duly executed and delivered on behalf of each Party by the appropriate officers, and constitutes a legal, valid and binding obligation of such Party enforceable against it in accordance with its terms upon the approval and/or ratification of this Agreement by the respective Board of Directors.
- 6.4 No Violation or Breach.** The execution, delivery and performance by each Party of its obligations under this Agreement and the consummation of the transactions contemplated herein will not result in any violation of any term of Buyer's franchise or by-laws, or Seller's articles of incorporation or by-laws, or of any contract or agreement to which it is party or by which it or its property is bound, or, of any Applicable Law applicable to it, except any such violations which, individually or in the aggregate, would not adversely affect the performance by such Party of its obligations under this Agreement.

Section 7 Scope of Agreement

- 7.1 General.** Except as provided in this Agreement, the Seller shall be responsible for the ownership, control and possession, operation and maintenance of the Power Plant in accordance with Section 7.2 and which Buyer may dispatch in accordance with this Agreement. The Buyer shall dispatch the Power Plant for its power requirements in accordance with the Merit Order Table in Schedule D, and pay the Monthly Fees in accordance with Section 15 of this Agreement. It is understood that, except as otherwise expressly provided for in this Agreement, the BUYER shall only pay for Actual Energy delivered.
- 7.2 Responsibilities of the Seller.** At its own cost, the Seller shall be responsible for the following:
- a) The ownership, control and possession, operation and maintenance of the Power Plant, including obtaining all necessary Government Consents, including environmental approvals, required in connection with the Power Plant, in accordance with Good Industry Practice, the technical parameters set forth in Schedule ____ and in compliance with Applicable Law;
 - b) Acquisition of the Site by purchase, lease or any other arrangement entitling Seller to possession and occupation thereof up to the termination of Cooperation Period;
 - c) Cooperate with the Buyer in securing provisional or final approval of this Agreement with the Energy Regulatory Commission (the "ERC).
 - d) At least three (3) months prior to COD, the Seller shall secure a fuel supply contract equivalent to the cooperation period of the power supply agreement, and provide a copy thereof to the Buyer.



- e) The Seller shall design the power plant/s and arrange for the delivery of fuel to the power plant such that there is at least fifteen (15) days of sufficient fuel stock at any point in time. Sufficient fuel stock means there will be no plant outage, whether partial or total, due to lack of fuel.
- f) The Seller shall allow inspection of fuel stores by Buyer upon request.
- g) Responsible for all the requirements that may be required by the Transmission owner.
- h) Preparing and submitting to Buyer and System Operator the Plant Operating and Maintenance Program specified in Schedule C.
- i) Preparing and submitting to Buyer and System Operator the Availability Declaration in Schedule C.

7.3 Responsibilities of the Buyer. At its own cost, the Buyer shall be responsible for the following:

- a) Dispatch through the System Operator the Power Plant in accordance with the Dispatch Protocol to be agreed by the Parties with the System Operator;
- b) Providing the Buyer the Indicative and Committed Dispatch Schedules specified in Schedule C.
- c) Make payments in accordance with Section 15;
- d) Cooperate with the Seller in securing provisional or final approval of this contract with the ERC;

Section 8 Effectivity, Term, Commercial Operation Date (COD)

- 8.1 Effectivity.** This Agreement shall take effect upon the date of signing thereof by both Parties (the "Effective Date").
- 8.2 Cooperation Period.** This Agreement shall have a cooperation period of five (5) years reckoned from the Commercial Operations Date stated in the Section 8.3 hereof, unless earlier terminated pursuant to this Agreement.
- 8.3 Commercial Operation Date (COD).** The "Commercial Operation Date" shall occur on 26 December 2021 or Ninety (90) days upon issuance of ERC Provisional Authority (PA) or Final Approval (FA) of the PSA.



Section 9 Delayed COD

9.1 Excused Delay Events. The following shall constitute Excused Delay Events in case the Seller had experienced a delay in achieving the Start of the Commercial Operation Date, provided that the delay is not caused by any act, omission or fault of the Seller or any of its employees, partners, agents, including its contractors and suppliers, to wit:

- 9.1.1 non-issuance of the ERC Provisional or Final Approval of this Agreement;
- 9.1.2 the occurrence of an Event of Force Majeure;
- 9.1.3 any act or omission of the Buyer that adversely impacts the Seller's ability to achieve Start of Supply Delivery (whether as a result of a breach or default of the Buyer under this Agreement or otherwise); and
- 9.1.4 any delay in the issuance of any Governmental Authorization in connection with the execution, delivery and commencement of performance of this Agreement, including without limitation, the relevant permits and all other Governmental Authorizations required pursuant to the EPIRA, and all applicable environmental laws and regulations of the Department of Environment and Natural Resources. The Seller shall submit a report to the Buyer on a monthly basis, regarding the status of the application for issuance of Government Authorizations.

9.2 Consequences of Excused Delay Events

- 9.2.1 The period of delay shall not affect the end of contract, (i.e., non-issuance of ERC provisional approval, occurrence of Event of Default, etc.). However, should the circumstances warrant and upon approval of the ERC the Buyer shall be allowed to extend the termination date of this contract.
- 9.2.2 If the Seller fails to deliver the requirements on COD, the Seller or the Buyer shall arrange alternative supply for a maximum period of six (6) months. The difference between the cost of the alternative supply and the cost of power supply under this PSA shall be to the account of the Seller who failed to deliver.
- 9.2.3 If the period of delay exceeds six (6) months, the Buyer may terminate the contract and extend the alternative supply for a maximum period of one (1) year while conducting the Competitive Selection Process for New Power Provider.

- 9.3 Consequences of Unexcused Delay.** Without prejudice to the provisions of Section 18 and Section 19 hereof, the Parties hereby agree that occurrence of an unexcused delay shall be a ground to terminate this Agreement by giving a formal notice of termination, without need of judicial action.

Section 10 ERC Application and Approval

- 10.1 ERC Application.** Within thirty (30) days from Effective Date, the Parties shall cooperate and jointly file the necessary application for the approval of this Agreement (“ERC Application”) with the ERC, such that:
- 10.1.1 The Parties shall exert their best efforts to obtain the approval as promptly as practicable and shall comply with all applicable procedural requirements governing such applications under the implementing rules and regulations of the EPIRA, ERC Rules of Practice and Procedure and pertinent ERC Resolutions.
 - 10.1.2 The Parties shall furnish all documents that the ERC may require in connection with the ERC Application and for its review or examination with respect to this Agreement.
- 10.2 Remedies on ERC Conditional Approval.** If ever ERC grants Conditional Approval” of the Agreement, or requires an amendment of any provision for this Agreement, or subjects such approval to any material term or condition that is not acceptable to either Party:
- 10.2.1 The Parties shall cooperate in good faith to resolve the term or condition required by the approval of ERC;
 - 10.2.2 The Parties shall make the necessary amendment(s) to the Agreement to conform or to address the material term or condition required by ERC;
 - 10.2.3 The Parties, within fifteen (15) days after the receipt by the Parties of the ERC Conditional Approval, seek a reconsideration of the ERC Conditional Approval; or
 - 10.2.4 The Parties, within fifteen (15) days after receipt by the Parties of the ERC Conditional Approval, revise and file an amended Agreement for approval by the ERC, provided that:
 - 10.2.4.1 If the revised or amended Agreement is denied by the ERC for non-compliance with legal requirements, the parties shall adopt the recommendations of ERC for the approval of the Power Supply Agreement (PSA).



10.2.5 The Parties, however agree that approval of ERC of the Agreement which causes a downward or upward adjustment in the total fees agreed by the Parties in the Agreement, shall not be deemed as Conditional Approval referred to in this Section and the same shall not be considered as a ground to terminate this Agreement.

Section 11 Sale and Supply of Net Dependable Capacity and Associated Energy

11.1 Supply of Power. The Seller shall supply the Net Dependable Capacity and the Associated Energy in accordance with the Dispatch Schedule of the System Operator, subject to the terms and conditions in this Agreement.

11.1.1 From the Start of COD until the Termination Date as specified in this Agreement, the Seller shall make available at the Delivery Point, and sell, to the Buyer the Net Dependable Capacity and the Associated Energy.

11.1.2 The Buyer shall pay the Fixed Cost (FC1 and FC2) based on the actual monthly Capacity Utilization Factor and Variable Cost (VC1 and VC2) components of Monthly Fees in accordance with the computation in Schedule A.

Section 12 Commissioning Energy

12.1 Notifications. In addition to the responsibility of the Seller to provide the Buyer monthly update on the status of construction of the power plant, the Seller shall also notify the Buyer, at least 30 days in advance, of its Commissioning Schedule in order to afford the Buyer ample period to arrange the Commissioning Load level and necessary circuit configurations.

12.2 Commissioning Energy Fees. The Buyer shall purchase and pay the commissioning energy output at a rate equivalent to the SAGR.

12.3 Feedback Electricity. The Seller shall pay for the feedback electricity used during the commissioning at a rate equivalent to the Industrial type customer of the Buyer.

Section 13 Power Plant Outages

13.1 The Seller shall be allowed of _____ hours annual Scheduled Outage and _____ hours annual Unscheduled Outage for power plant. For clarity, the Scheduled Outage shall refer to the annual Planned Maintenance of the power plant which are approved by the System prior to any Operating Year. Unscheduled Outage refers to Forced Outage and/or Unplanned Maintenance Outage.

- 13.2** Unutilized outage allowance shall not be carried forward to subsequent contract year. Allowance for Scheduled Outage may be borrowed from the Allowance for the Unscheduled Outage provided the total allowance for scheduled and unscheduled outages are not exceeded. Provided further, that the Unscheduled Outage Allowance cannot be borrowed from the Allowance for Scheduled Outage.
- 13.3** Should either Scheduled Outage Hours or Unscheduled Outage Hours exceed the Allowed Outages for any year, the fixed cost components of the price shall be reduced proportionately to the undelivered capacity and shall be returned to the Buyer through reduction of power rates in the succeeding year in accordance to Schedule F.
- 13.4** The Seller on its own account must provide Replacement Capacity when the Power Plant is unavailable to produce power due to Scheduled and Unscheduled Outage in excess of Allowed Outages. Failure to provide replacement capacity shall be penalized by computing the undelivered energy multiplied by the penalty price of PHP21.6319/kWh which shall be inflated for the year that the Outage Allowance is exceeded.
- 13.5 Notification of Outages.** When a Forced Outage occurs, the Seller shall notify the Buyer of the existence, nature and expected duration of the Forced Outage as soon as practicable after such occurrence. The Seller shall inform the Buyer promptly of changes in the expected duration of a Forced Outage.
- 13.6 Reporting of Power Plant Outages.** If so required, the Seller and the Buyer shall cooperate and report all power plant outages to ERC, DOE, NEA and NPC-SPUG, each furnishing the other Party Certified Copy of such report.

Section 14 Plant Operating and Maintenance Program, and Availability Declarations and Dispatch Schedule

- 14.1** The Seller shall provide the Buyer and System Operator the Plant Operating Maintenance Program in accordance with Schedule C.
- 14.2** The Seller shall provide the Buyer and System Operator the Availability Declaration in accordance with Schedule C.
- 14.3** If the Generating Unit Availability Declaration for the Next Schedule Day has not been submitted in the prescribed deadline, the Generating Unit shall be excluded in the Next Schedule Day and shall be deemed unavailable subject to the payment of penalties stated in this Agreement.
- 14.4** The Buyer shall provide the Seller the following Generation Dispatch Schedule upon issuance of the System Operator:
- a) Indicative Year-Ahead Dispatch Schedule;



- b) Indicative Month-Ahead Dispatch Schedule;
- c) Indicative Week-Ahead Dispatch Schedule;
- d) Committed Day-Ahead Dispatch Schedule; and
- e) Real-Time Dispatch Schedule, as applicable.

Section 15 Billing and Payment

- 15.1 Monthly Power Bill.** The Buyer shall pay the Seller the monthly power bill components of the Price Structure in accordance with Schedule A.

Payments to Seller shall be made by OMEKO from the collection of generation charges from its member-consumers, according to the Subsidized Approved Generation Rate (SAGR) approved by the Energy Regulatory Commission (ERC). Further, subsidy shall be disbursed by the Power Sector Assets and Liabilities Management Corporation (PSALM) for the NPP to recover its costs according to the True Cost Generation Rate (TCGR), in accordance with Section 4 of the "Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas" adopted under ERC Resolution No. 11, Series of 2005.

- 15.2 Power Bill Adjustments.** The Monthly Power Bill may be reduced through a credit memorandum (a "Credit Memo") granted by the Seller to the Buyer, which the latter chooses to avail of, or increased with any amounts indicated in a debit memorandum (a "Debit Memo") as due to verified, authorized and legitimate causes.

- 15.3 Service of Billing Notice.** The Seller shall provide the Buyer an itemized invoice for the Monthly Power Bill ("Invoice") not later than the Fifth (5th) Day of the calendar month following the end of each Billing Period, at the Main Office of the Buyer. Prescribed time related to payments by the Buyer shall be reckoned on the day of actual receipt of the said official notice.

- 15.4 Restrictions in Tender of Monthly Bill Payment.** The Buyer shall pay the Monthly Power Bill stated in the Invoice in full, free and clear from encumbrances and without set-off, counterclaim or necessity of demand, no later than 1200 hours on the 25th day of the calendar month succeeding the applicable Billing Period ("Payment Due Date"). In case the Payment Due Date falls on a Saturday, Sunday or Holidays, the payment shall be made on the next Business Day.

- 15.5 Suspension of Deliveries for Non-full Payment.** The Seller shall have the right to suspend the availability and supply of Contracted Capacity and Associated Energy under this Agreement, in accordance with Section 18.3.5 if the Buyer fails to pay any Monthly Power Bill in full on the Payment Due Date.



- 15.6 Currency.** The Buyer shall pay the Monthly Power Bill on the payment due date in Philippine Pesos.
- 15.7 Withholding Tax and VAT.** The Seller agrees that the Buyer shall deduct and withhold from the amounts payable under an Invoice, the applicable creditable withholding tax, and the Buyer shall remit to the relevant taxing authorities any amounts withheld for such tax, and transmit to the Seller any corresponding documentation of such withholding based on prevailing regulations. If the Seller believes such withholding tax is not applicable to it, the Seller shall provide the Buyer with such documents and evidence acceptable to the Buyer to demonstrate that payments to the Seller are not subject to such withholding tax.
- 15.8 Consequences of Seller's Refusal to Allow or Request Not to Withhold Tax at VAT.** If the Buyer does not withhold such tax upon the Seller's refusal or request, including any change, reversal or ruling affecting the Seller's status or claim of not being subject to a creditable or withholding tax, then the Seller shall indemnify the Buyer within five (5) business days of due Notice for any assessment, liability, surcharge, interests, penalties and other costs or fees arising from the Buyer's non-withholding or failure to withhold creditable withholding tax.
- 15.9 Consequences of Buyer's Failure in the Remittances of Withholding Tax or VAT.** The Buyer shall pay to the taxing agencies in full the Value Added Tax ("VAT") corresponding to the Contract Price or otherwise pay any applicable interest and penalties for late payments, and all other payments attached to the taxes that it withheld from the Seller under this Agreement.
- 15.10 Method of Payment.** Monthly Payment shall be made through check payable to the Seller.

Section 16 Over Due Accounts

- 16.1 Penalty Interest for Late Payments.** Any amount not paid by the Buyer on or after the Payment Due Date, and not validly disputed in accordance herewith, shall bear a daily penalty interest on the remaining unpaid balance. The penalty shall be computed from the first day after it becomes due and payable up to the date of payment, at interest rate of 6.0% per annum.
- 16.2 Overdue Balance of Account for More than Three (3) Months.** With reference to Section 17 of this Agreement, all remaining balance of payments lasting for more than three (3) months shall bear additional penalty equivalent to one half of one percent (0.5%) per month without prejudice to the Seller's other rights and remedies, including the right to exercise the Discontinuance of Supply or to suspend or terminate this Agreement.



- 16.3 Other Enforceable Consequences at Seller's Discretion.** The payment by the Buyer of this penalty interest in Section 16.1 shall not in any way prejudice the Seller's right to exercise the Discontinuance of Supply or to suspend or terminate this Agreement and other rights under Section 18.4.

Section 17 Billing Dispute

- 17.1 Notification Period.** The Buyer has the right to place under dispute any Monthly Power Bill within sixty (60) days upon receipt of the Invoice from the Seller in accordance with Section 15.3. Failure to notify the dispute or claims during the period shall constitute a waiver by the Buyer of any claim or dispute in respect of such Invoice, except those arising from errors in billings under Section 17.4 hereof.
- 17.2 No Deduction, No Delay.** Disputed Invoices shall be paid by the Buyer in full, without deductions, withholdings or offsets, notwithstanding such dispute. The Seller shall then evaluate the claim and adjust the billings in accordance with its findings. Disputed Invoices shall not be an excuse or ground for the Buyer to delay payment of succeeding billings, or to unilaterally deduct any amount therefrom.
- 17.3 Period for Resolution of Billing Dispute.** Parties shall resolve the Billing Dispute within fifteen (15) days after Notice of Dispute has been given. If the parties are unable to settle the dispute within such period, either Party may, with due notice to the other Party, submit the Billing Dispute for final resolution to the ERC. The Parties agree that the ERC's resolution shall be final and binding between them.
- 17.4 Errors in Billing.** In the event that an Invoice is found erroneous due to arithmetical mistakes, omissions, inaccuracy in the metering equipment, typographical error or otherwise, the Seller shall send the Buyer a Debit Memo or Credit Memo to correct the error. Nothing herein or any act of the Seller shall be deemed to have estopped the Seller from sending the correct billing information. However, the Buyer has the right to verify such corrections and dispute the same, if warranted.
- 17.5 Amicable Resolution of Disputed Bills.** The Parties shall amicably resolve any disputed Invoice by themselves. However, on the option of any of the Parties and with due notification, the matter may be submitted to the ERC for resolution if the Parties cannot resolve the dispute within fifteen (15) days after service of the notice.

Section 18 Buyer's Events of Default

- 18.1 Distinction of Events.** Events listed herein are considered Buyer's events of default when such events result in an actual failure to accept the Net Dependable Capacity or to pay the Contract Price.

18.2 Notification Requirement. The Buyer has the obligation to notify the Seller of such Buyer's Event of Default within five (5) days from occurrence thereof.

18.3 Enumeration. Listed hereunder are specific events attributable as the Buyer's default and their cure period:

18.3.1 The appointment of a receiver or liquidator or trustee of the Buyer or of any material property of the Buyer; the bankruptcy, insolvency or corporate rehabilitation of the Buyer or sequestration of any substantial part of the property of the Buyer; the filing of a petition to declare the Buyer bankrupt or to reorganize the Buyer pursuant to any of the provisions of any applicable bankruptcy or rehabilitation law or any similar statute – ninety (90) days cure period from receipt of written notice from the Seller;

18.3.2 The voluntary passing of a resolution or filing of a petition for the bankruptcy, insolvency, corporate rehabilitation or winding up, liquidation of, or other similar proceeding relating to the Buyer; or the Buyer consents to the filing of any bankruptcy, corporate rehabilitation or reorganization petition against it – ninety (90) days cure period from receipt of written notice from the Seller;

18.3.3 The Buyer files a petition or answer in a proceeding under any of the provisions of any applicable bankruptcy, insolvency or corporate rehabilitation law or any other similar statute admitting the material allegations of a petition filed against it in such a proceeding; the Buyer makes a general assignment of its assets and rights for the benefit of its creditors; or the Buyer admits in writing its inability to pay its debts generally as they become due – ninety (90) days cure period from receipt of written notice from the Seller;

18.3.4 The Buyer breaches any of its material representations, warranties, covenants or obligations under this Agreement (other than a breach otherwise referred to in this Section) – ninety (90) days cure period from receipt of written notice from the Seller;

18.3.5 The Buyer fails to make any payment under this Agreement when due and payable and such payment is not made on the due date – fifteen (15) days cure period from receipt of written notice from the Seller.

18.3.6 The Buyer fails to post a Security Deposit within Forty-Five (45) Days from payment due date.

18.4 Remedies to the Buyer's Events of Default. If the Buyer is not able to cure its Events of Default within the Cure Period despite receipt of the **Notice of Buyer's Default** from the Seller, any or all of the following remedies may be course through:

18.4.1 During the occurrence of a Buyer Event of Default, the Seller may sell the Net Dependable Capacity to third parties, until such time that the Buyer Event of Default has been remedied by the Buyer.

18.4.2 The Seller may discontinue supplying energy to the Buyer ("Discontinuance of Supply") in accordance with Applicable Laws. Such Discontinuance of Supply and/or Disconnection shall not be considered as a Seller's Event of Default. During this period of Discontinuance of Supply and/or Disconnection, the Seller shall have a right to sell and make available the Net Dependable Capacity to third Parties, and the Parties may negotiate in good faith with a view to agreeing on a satisfactory solution to restore the business interests or commercial positions of the Parties.

18.4.3 In case the Parties fail to reach an agreement within ninety (90) Days from the commencement of the Discontinuance of Supply, then the Seller shall have the right to terminate the Agreement.

18.4.4 The Buyer agrees that the Seller shall not be liable for any direct or indirect consequences of any Discontinuance of Supply under this Section.

18.4.5 Following the Discontinuance of Supply in provision Section 18.4.2 hereof, the Seller shall have no obligation to resume the supply of Net Dependable Capacity until the satisfaction of, and compliance by the Buyer with the posting of the required Security Deposit and its obligations under this Agreement.

18.5 Effect of Termination Due to Buyer's Event of Defaults. In lieu of all other damages to which it may be entitled in respect of such Buyer Event of Default and this Agreement, the Seller shall be entitled to the following reliefs:

18.5.1 **Replacement Contract.** The Seller and/or Buyer shall secure a contract or series of contracts, if applicable.

18.5.2 **Liquidated Damages.** The Seller shall be entitled to liquidated damages, in lieu of all other damages to which it may be entitled in respect of such Buyer Event of Default and this Agreement, upon the occurrence of the following:

18.5.2.1 The Buyer Event of Default that results in the early termination of this Agreement; and



18.5.2.2 Failure of the Seller and/or Buyer to secure a Replacement Contract or if the Replacement Contract results in a contract price lower than the Contract Price under this Agreement.

18.6 Liquidated Damages, Quantified. When applicable under the foregoing, the Seller shall be entitled to the payment of liquidated damages equivalent to the amount specified herein.

18.6.1 If the Replacement Contract will result in a lower contract price than the Seller would have received under this Agreement, the Buyer shall pay the amount computed as follows:

18.6.1.1 Capacity Recovery Fee under this Agreement less Replacement Contract Capacity Recovery Fee multiply by the remaining contract years and contracted capacity

18.6.2 If the Buyer Event of Default will result to the early termination of this Agreement, the Buyer shall pay as liquidated damages the amount proportionate to the unrecovered Capacity Recovery Fee of the Seller for the remaining contract years.

18.7 Payment of Liquidated Damages by the Buyer. The Buyer shall pay the Seller the amount of such liquidated damages within sixty (60) calendar days after receipt of written demand for payment. The Parties acknowledge and agree that the liquidated damages set forth in this Section 18 represent a fair and reasonable estimate of the loss, which the Seller will suffer in case a Buyer's Event of Default occurs.

Section 19 Seller's Events of Default

19.1 Distinction of Events. All events attributable to the Seller that result in an actual failure to deliver to the Buyer the required Contract Capacity shall constitute a Seller's Event of Default.

19.2 Notification Requirement. The Seller has the obligation to notify the Buyer of such Seller's Event of Default within five (5) Days from occurrence.

19.3 Enumeration. Listed hereunder are specific events attributable as Seller's default and their cure period:

- 19.3.1 The appointment of a receiver or liquidator or trustee of the Seller or of any material property of the Seller; the bankruptcy, insolvency or corporate rehabilitation of the Seller or sequestration of any substantial part of the property of the Seller, the filing of a petition to declare the Seller bankrupt or to reorganize the Seller pursuant to any of the provisions of any applicable bankruptcy or rehabilitation law or any similar statute – the Seller shall have ninety (90) days from receipt of written notice of default from the Buyer within which to cure or discharge such default.
- 19.3.2 The voluntary passing of a resolution or filing of a petition for the bankruptcy, insolvency, corporate rehabilitation or winding up, liquidation of, or other similar proceeding relating to the Seller; or the Seller consents to the filing of any bankruptcy, corporate rehabilitation or reorganization petition against it – the Seller shall have ninety (90) days from receipt of written notice of default from the Buyer within which to cure or discharge such default.
- 19.3.3 The Seller files a petition or answer in a proceeding under any of the provisions of any applicable bankruptcy, insolvency or corporate rehabilitation law or any other similar statute admitting the material allegations of a petition filed against it in such a proceeding; the Seller makes a general assignment of its assets and rights for the benefit of its creditors; or the Seller admits in writing its inability to pay its debts generally as they become due – the Seller shall have ninety (90) days from receipt of written notice of default from the Buyer within which to cure or discharge such default.
- 19.3.4 The Seller breaches any of its material representations, warranties, covenants or obligations under this Agreement (other than a breach otherwise referred to in this Section) – the Seller shall have Ninety (90) days from receipt of written notice of default from the Buyer within which to cure such default.
- 19.4 Remedies to the Seller's Event of Defaults.** If despite receipt of the Notice of Seller's Default from the Buyer, the Seller is not able to cure its Events of Default within the Cure Period, any or all of the following remedies may be course through:
- 19.4.1 The Buyer may terminate this Agreement and pursue any remedy available to it under this Agreement, at law or in equity.
- 19.4.2 The Buyer may forfeit the Performance Security and may require payment of Liquidated Damages set out in Section 19.5.3 hereof.



19.5 Effect of Termination Due to the Seller's Events of Default. In lieu of all other damages to which it may be entitled in respect of a Seller Event of Default under this Agreement, the Buyer shall be entitled to the following reliefs:

19.5.1 **Replacement Contract.** The Seller and/or Buyer shall secure a contract or series of contracts, if applicable.

19.5.2 **Liquidated Damages for Termination Due to the Seller's Event of Default.** The Buyer shall be entitled to liquidated damages, in lieu of all other damages to which it may be entitled in respect of such Seller's Event of Default and this Agreement, upon the occurrence of the following:

19.5.2.1 A Seller's Event of Default that results in the early termination of this Agreement; and

19.5.2.2 Failure of the Seller and/or Buyer to secure a Replacement Contract or if the Replacement Contract results in a contract price higher than the Contract Price under this Agreement.

19.5.3 **Liquidated Damages, Quantified.** When applicable under the foregoing, the Buyer shall be entitled to the payment of liquidated damages equivalent to the amount specified herein:

19.5.3.1 If a Replacement Capacity is available but with a higher contract price than the Buyer would have paid under this Agreement, the Seller shall pay the difference between the replacement contract price and contract price under this agreement; or

19.5.3.2 If a Replacement Capacity is not available, the Seller shall pay the cost of the Buyer's foregone revenue for every day of delay.

19.5.3.3 If the Seller Event of Default will result to the early termination of this Agreement, the Seller shall pay as liquidated damages the amount equivalent to the TCGR of the undelivered energy of the remaining contract period.

19.5.4 **Disqualification.** The Seller shall be disqualified from participating in any future biddings of the Buyer.



19.6 Payment of Liquidated Damages by the Seller. The Seller shall pay the Buyer the amount of such liquidated damages within sixty (60) calendar days after written demand for payment. The Parties acknowledge and agree that the liquidated damages set forth in this Section 19 represent a fair and reasonable estimate of the loss, which the Buyer will suffer in the event of a Seller's Event of Default.

Section 20 Events of Default, Common Provisions

20.1 Consequential Losses. Notwithstanding Section 18 and Section 19 of this Agreement, no Party shall in any circumstances be liable to the other Party in its performance of or failure to perform this Agreement or any provision hereof, whether in Agreement, tort or breach of statutory duty or otherwise for:

20.1.1 Loss of or anticipated loss of profit, loss of or anticipated loss of revenue, loss of use, business interruption, loss of use of any equipment, loss of any Agreement or other business opportunity or good will; and

20.1.2 Indirect or consequential losses or damages (which, for the avoidance of doubt, include all claims by the Buyer's customers), subject to Section 28 hereof.

20.2 Uniform Procedure for Termination upon Event of Default. If the non-defaulting Party decides to exercise its right to terminate this Agreement, in the case of the Seller, under Section 19 and, in the case of the Buyer, Section 18, then the non-defaulting Party may give a notice (a "Termination Notice") to the defaulting Party, specifying in reasonable detail the Event of Default giving rise to such Termination Notice, and the date on which the Agreement terminates, which shall not be less than ten (10) Business Days after the date of receipt of the Termination Notice.

20.3 Other Rights and Remedies for Termination upon Event of Default. Any event or action undertaken by a non-defaulting Party, as a direct result of an Event of Default by the other Party, shall not constitute an Event of Default of such non-defaulting Party. Upon termination of the Agreement due to the occurrence of an Event of Default, the non-defaulting Party may, in its sole discretion, exercise any of the remedies provided hereunder, in addition to the other remedies available under Section 18 and Section 19 of this Agreement, to wit:

20.3.1 Proceed in accordance with Section 23.1 to protect and enforce its rights, to recover any other damages to which it may be entitled (including all costs and expenses reasonably incurred in the exercise of its remedy), but subject to the limitations in Section 19.5 and Section 20.1; and

20.3.2 Seek the specific performance by the other Party of such other Party's obligations under this Agreement.

20.4 Termination Date. This Agreement shall terminate at 12:00 hours on the date (the Termination Date) that is the earliest to occur of:

20.4.1 The date specified in the Termination Notice for termination of this Agreement following non- achievement of the Seller's COD which is one hundred eighty (180) days;

20.4.2 The last Day of the Term;

20.4.3 The Date mutually agreed by both Parties; and

20.4.4 The date specified in a Termination Notice issued in accordance with Section 20.2 of this Agreement.

20.5 Other Consequences of Termination. Following the Termination Date, each Party shall, subject to Section 31, cease to have any further obligations, responsibilities or liabilities hereunder, other than for such obligations or liabilities that have accrued prior to the Termination Date and remain unsettled as of such date. In any case of termination, the invoice for the last Billing Period shall be due and payable in full notwithstanding the occurrence of the Termination Date, and the Buyer shall pay all amounts owing to the Seller, without need for demand, no later than thirty (30) days after the Termination Date.

Section 21 Security Deposit

21.1 Pre-condition for Security Deposit. The Seller shall have the right to require the Buyer to post the Security Deposit when the Buyer fails to make any payment in full under this Agreement when due and payable, or a Buyer Event of Default has occurred.

21.2 Suspension of Security Deposit. The Seller agrees to suspend the requirement for Security Deposit if the Buyer consistently paid its Monthly Power Bill after 12 consecutive months following the posting of Security Deposit as stated in Section 21.1.

21.3 Form. Security Deposit, if required, as stated in Section 21.1, shall be in the form of Prudential Guarantee from NEA.

21.4 Amount. The Security Deposit shall be equivalent to one hundred percent (100%) of the highest estimated Monthly Power Bill based on the dispatch/generation plan for the Seller for the current calendar year or from its actual deliveries whichever is higher. The Buyer shall furnish the Seller of the certified copy of the dispatch/generation plan for the following calendar year within 60 days prior the end of each calendar year.

21.5 Replenishment. If at any time (and from time to time), the Security Deposit is drawn partially or fully by the Seller, the Buyer shall replenish or replace the Security Deposit within reasonable time from notice by the Seller, in consideration of the requirements of the creditors of the Buyer. In the event that the Buyer fails to replenish or replace the full amount of the Security Deposit as required herein, the Seller shall have the right to refuse or discontinue the supply of electric energy, pursuant to Section 18.4.2 of this Agreement.

Section 22 Performance Security

- 22.1** The Seller shall maintain the performance security it has posted to guarantee the faithful performance of its obligations under this Agreement to be valid during the entire Cooperation Period.
- 22.2** The Performance Security shall be denominated in Philippine Pesos, in the form of cashier's check or manager's check issued by a Universal or Commercial Bank in favor of OMEKO; or Bank Guarantee or Irrevocable Standby Letter of Credit issued by a Universal or Commercial Bank with a branch in Occidental Mindoro in favor of the Buyer (i.e., PNB, LBP, MBTC etc.), in the amount of _____.
- 22.3** The Performance Security shall be forfeited in full by the Buyer in case of termination of the Agreement due to Seller's Default or breach of the terms of this Agreement by the Seller or failure of the Seller to perform its obligations under this Agreement.

Section 23 Settlement of Disputes

23.1 Amicable Settlement. The Parties shall endeavor in the first instance to resolve any dispute, controversy, claim or difference of any kind whatsoever in connection with, or arising out of, this Agreement (including, without limitation, the breach, termination or validity of this Agreement) or a Change in Applicable Law (a Dispute) for a period of thirty (30) Days after the receipt by one Party of a written notice from the other Party of the existence of the Dispute, by mutual discussions between the Parties. To this end, on or before seven (7) Days after receipt of written notification that a Dispute exists, each of the Seller and the Buyer shall designate in writing to the other a representative who shall be tasked to seek to resolve by an agreement between them any Dispute.

  

23.2 Legal Remedy for Failure to Settle Amicably. Any Dispute that is not settled by the Parties amicably in accordance with Section 23.1 shall be brought for resolution, to the ERC, which is vested by law with exclusive and original jurisdiction to settle such Dispute. However, in case of dispute not falling within the exclusive and original jurisdiction of ERC, the aggrieved party may initiate action before the court of competent jurisdiction in San Jose, Occidental Mindoro to the exclusion of any other courts or tribunals.

Section 24 Confidentiality

24.1 General. Each Party agrees that it will, and will ensure that its employees, officers and directors will, and will use best efforts to ensure that its agents will, hold in confidence this Agreement and all information, documentation, data or know-how disclosed to it by the other Party and designated in writing as confidential (the "Confidential Information").

24.2 Disclosure, Prior Written Approval. The Parties also agree not to disclose to any third Party or use Confidential Information or any part thereof without the other Party's prior written approval, provided, that Confidential Information may be disclosed to the Parties stated herein. The Party intending to make a disclosure of Confidential Information shall first obtain an agreement in writing, or other confidentiality obligation, from the person or entity to which Confidential Information is proposed to be disclosed and agrees not to disclose the relevant Confidential Information to any other person or entity for any purposes other than as contemplated in this Section, to wit:

24.2.1 Disclosure to a Government Instrumentality pursuant to Applicable Law or a stock exchange when required by it;

24.2.2 To financial institutions, bona fide potential purchasers, insurers and consultants and contractors whose duties reasonably require such disclosure;

24.2.3 To rating agencies for the purpose of obtaining or maintaining financing; and

24.2.4 To any employee, director, advisor or representative of such Party specified in this Section.

24.3 Exemption from Prior Written Approval. The Parties may disclose Confidential Information to independent legal advisors, NEA, NPC, DOE and to the ERC in view of an ERC Application without requiring approval from the other Party.

24.4 Not Restricted. The restriction in this Section 24 shall not apply, or shall cease to apply, to any part of the Confidential Information that:

24.4.1 was in the rightful possession of the recipient Party at or prior to the time of the disclosure; or

24.4.2 was obtained by the recipient Party in good faith from a third Party entitled to disclose it.

Section 25 Warranty Against Corruption, Anti-Competitive Behavior, Unfair Trade Practices and Violations of R.A. 9136

25.1 Each Party represents and warrants to the other that it and its representatives, individuals, sole proprietorships, partnerships, corporations, Joint Ventures and Consortiums have complied with all laws dealing with corrupt or illegal payments, gifts, or gratuities. Each Party agrees not to (and to cause its representatives, individuals, sole proprietorships, partnerships, corporations, Joint Ventures and Consortiums not to), in connection with the activities contemplated by this Agreement, pay, promise to pay, seek, accept, or authorize the payment of any money or anything of value, directly or indirectly, to any person for the purpose of illegally or corruptly influencing any of the Buyer's employee or official. Furthermore, each Party agrees that in connection with this Agreement and the activities contemplated hereby, it and its representatives, individuals, sole proprietorships, partnerships, corporations, Joint Ventures and Consortiums will not take any action, or fail to take any action, which act or failure to act would subject the other Party or any of its representatives, individuals, sole proprietorships, partnerships, corporations, Joint Ventures and Consortiums to liability under the laws of its country of domicile dealing with corrupt payments. Each Party agrees to indemnify the other Party from and against any loss, liability or damage (including reasonable attorney's fees) arising from or relating to such Party's breach of its representations, warranties, and obligations under this Section. Each Party represents and warrants to the other Party that prior to the date of this Agreement, it and its representatives, individuals, sole proprietorships, partnerships, corporations, Joint Ventures and Consortiums have not taken any action in continuation of the foregoing in connection with the subject matter hereof.

25.2 The Seller and the Buyer shall observe the highest standard of ethics for the duration of the Transaction and during the execution of all agreements. In pursuance of this policy, the following definitions shall apply:

- a) "*Corrupt practice*" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves and/or 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 involved in this Transaction or in contract execution; entering into any agreement or transaction manifestly and grossly disadvantageous to the Buyer, whether or not any person profited or will profit thereby.

- b) "Fraudulent practice" means a misrepresentation of facts in order to influence the process or outcome of this Transaction or the execution of an agreement to the detriment of the Buyer.
- c) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in this Transaction, or affect the execution of an agreement.

Section 26 Transparency

26.1 Disclosure to NEA, NPC, DOE and ERC. For monitoring and regulatory purposes, the Parties shall disclose market information and load profiles to the NEA, NPC, DOE and ERC to ensure transparency and facilitate access to market information.

Section 27 Change in Applicable Law

27.1 Effect of Change in Applicable Law. The Parties shall exercise their best efforts to negotiate, finalize and execute an amendment to this Agreement that gives effect to the commercial intent of the Parties as at the Effective Date following any event that Change in Applicable Law materially or adversely affects the ability of a Party to perform its obligations, or exercise its rights, under this Agreement, or renders all or a portion of this Agreement unenforceable.

27.2 New Charges and Increased Charges. The Parties agree that in the event that any Change in Applicable Laws results to the Seller's payment of additional charges or withholding of payments from its delivery of Contract Capacity, such additional charges shall be for the account of the Buyer. Therefore, the consequent charges and costs described as follows, shall be added in the calculation of the Contract Price:

27.2.1 Any new Governmental Charges; Taxes; fees; duties, assessments or other similar amounts, or;

27.2.2 Any increase in existing Governmental Charges; Taxes; fees; duties; assessments or other similar amounts with respect to this Agreement.

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27.3 Refunds or Charges from Change in Applicable Law. If as a result of a Change in Applicable Law (i) any portion of the Contract Price or Monthly Power Bill that has been paid to the Seller is required to be refunded to the Buyer or the Buyer's customers, or (ii) prevents the Seller from charging the Buyer the Contract Price, then the Seller may serve a notice to the Buyer that a Change in Applicable Law has transpired (a "Notice of Change in Applicable Law") specifying the Change in Applicable Law together with such other or further information as may be reasonably required to enable the other Party to assess the nature and potential effect of the matters specified in the Notice of Change in Applicable Law.

27.4 Negotiation following Change in Applicable Law. By not later than ten (10) Business Days from the service of the Notice of Change in Applicable Law, the Parties shall negotiate in good faith with a view to agreeing on a satisfactory solution to restore the commercial position of the Seller prior to the occurrence of the Change in Applicable Law. If the Parties cannot reach agreement in thirty (30) days, Section 20.2 and Section 23.2 shall apply.

Section 28 Indemnification and Liability

28.1 Limitation. Each Party shall indemnify, defend and hold harmless the other Party, from and against all claims made against or suffered by the other Party for any loss of or damage to property or death or injury to persons, resulting from any negligent act or omission of the other Party or any of its subcontractors, employees, directors, officers, agents or shareholders that arises out of or is in any manner connected with the performance of this Agreement except to the extent such loss, damage, injury or death is attributable to the gross negligence or wilful misconduct of, or material breach of this Agreement by, the other Party or any of its subcontractors, employees, directors, agents or shareholders, or the failure of the other Party or any of its subcontractors, employees, directors, agents or shareholders to take reasonable steps in mitigation thereof.

28.2 Proceedings. The Party to be indemnified shall promptly notify the indemnifying Party of any claim in respect of which it is entitled to be indemnified under this Section. Such notice shall be given as soon as reasonably practicable after the Party to be indemnified becomes aware of such claim.

The Party to be indemnified shall not be entitled to settle or compromise any claim, action, suit or proceeding in respect of which it is entitled to be indemnified by the indemnifying Party without the prior written consent of the indemnifying Party.

Section 29 Force Majeure

29.1 Events of Force Majeure. Events of Force Majeure shall be:

29.1.1 Acts of God or other natural calamities, i.e., earthquakes, floods, tidal waves, volcanic eruptions, meteorological disasters, or accidents, explosions or fires caused by any of the above and/or by a third party beyond the control of the Parties, including strikes or lockouts or other industrial action by workers or employees of a Party, and which are unforeseeable or which, though foreseen, are inevitable; or

29.1.2 The following political or government occurrences:

- a) acts of war, whether declared or not, embargoes;
- b) acts of terrorists, public disorders, insurrection, rebellion, sabotage, riots or violent demonstrations; and
- c) any action or failure to act by any Government Authority, including without limitation, expropriation, compulsory acquisition, the denial of or delay in the granting of any Government Consents which the Parties have agreed to waive for an agreed to time period past the Effective Date, the failure of any such Government Consent once granted to remain in full force and effects or to be renewed on substantially similar terms, and any delay in the importation of equipment or supplies into the Philippines resulting from any action or failure to act by Governmental Authority of the Republic of the Philippines, provided that in any of these cases, the affected Party complied with the timely and full submission of requirements.

For the avoidance of doubt,

- a) the breakdown or failure of equipment or machinery of the Buyer shall not in itself be considered as an Event of Force Majeure, unless otherwise such breakdown is due to an Event of Force Majeure;
- b) the breakdown or failure of equipment or machinery of the Plant or the delay or inability to procure fuel for the Plant shall not in itself be considered as an Event of Force Majeure, unless otherwise due to an Event of Force Majeure;
- c) (i) an interruption of the Plant's generating capability resulting in an unplanned reduction or suspension of the electrical output from the Plant and/or unavailability of capacity in whole or in part from the Plant; (ii) automatic shutdown of any part of the

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Plant; and (iii) other unavailability of the Plant for operation, that in the case of any of (i), (ii) or (iii) is due to an Event of Force Majeure, shall be treated for all purposes of this Agreement as an Event of Force Majeure and not as a Forced Outage; and

- d) at no instance shall an Event of Force Majeure excuse late or any delay in payments of obligations which are already due prior to the occurrence of an Event of Force Majeure under this Agreement.

29.2 Effect of Force Majeure

29.2.1 Except for the obligation of either Party to make any required payments which are already due and demandable under this Agreement, the Parties shall be excused from performing their respective obligations under this Agreement and shall not be liable for damages or otherwise if and only to the extent that they are unable to so perform or are prevented from performing their obligation under this Agreement by reason of the Force Majeure, provided, that:

- a) the non-performing Party, immediately after the occurrence of the Force Majeure (in the case of the Buyer) or in no event later than twenty-four (24) hours thereafter or as soon thereafter as may be reasonably practicable under the circumstances (in the case of the Seller), gives the other Party written notice describing the event, the effect thereof and the actions being taken in response thereto;
- b) the suspension of performance is of no greater scope and or of no longer duration than is reasonably required by the event of Force Majeure;
- c) no obligation of either Party, which arose before the occurrence of the event that caused the suspension of performance, shall be excused as a result of the Force Majeure; and
- d) the Term shall be extended by a period equal to that during which the event of Force Majeure or its effect and consequences applies.

If the event of Force Majeure occurred with respect to the Buyer, the Seller may sell the electric power that should have been delivered to the Buyer to third parties.

29.2.2 Both parties shall be excused from performing their respective obligations under this Agreement upon the occurrence of an Event of Force Majeure for a period not exceeding 180 days. However, prolonged Force Majeure for more than 180 days may lead to termination of the agreement. In case of an Event of Force Majeure under Section 29.1 hereof, the Commercial Operations Period shall be extended, without need of further agreement or consent, by such number of days necessary to allow the Seller to supply the kWh-shortfall during the Force Majeure Period.

29.3 Force Majeure Prior to Commercial Operation Date

29.3.1 Upon the occurrence of a Force Majeure prior to the Commercial Operation Date, which prevents the completion of the Power Stations by the Scheduled Commercial Operation Date, the Scheduled Commercial Operation Date shall be extended for the same period as such Force Majeure event or its effect and consequences continue.

Section 30 Amendments

30.1 Pursuance to Rules and Regulations. The Parties, upon mutual agreement, may amend, modify, and/or revise any provision of this Agreement. Such amendment, modification or revision of any provision of this Agreement shall be effective if it is in writing and signed by both Parties, and if it is in accordance with ERC rules and regulations, if applicable.

Section 31 Language and Notices

31.1 Language. All documents, notices, waivers and all other communications, written or otherwise, between the Parties in connection with this Agreement shall be in the English language.

31.2 Notices. Any notice or other communication to be given hereunder, shall be in writing and shall be sufficiently given if delivered by registered mail, courier or hand-delivered against written receipt or if transmitted and clearly received by facsimile transmission or email addressed as follows:

In the case of the Buyer, to:

Occidental Mindoro Electric Cooperative, Inc.
M. H. Del Pilar St., Barangay 6, San Jose,
Occidental Mindoro

Attention : Board President
Facsimile : _____
E-mail : _____
Telephone : _____

  

With a copy to :
Attention : General Manager
Facsimile : _____
E-mail : _____
Telephone : _____

In the case of the Seller, to:

[Generation Company]
[Address]

Attention : [Authorized Representative]
Facsimile : _____
E-mail : _____
Telephone : _____

Section 32 Assignment of Rights

32.1 Assignment of Rights. Assignment of rights is expressly prohibited. However, in case the Seller shall construct a New Power Plant to comply with its obligations under this Agreement and the construction is financed by a Lender/Bank that requires the subrogation of the Lender/Bank to the rights of the Seller as an assurance of compliance to their Financing Contract, Assignment of Right may be allowed, without prejudice on the part of the Buyer to rescind this PSA and seek damages should the assignment be found to be fraudulently made and patently done in bad faith.

For this purpose, fraud and bad faith means: "An Act of circumventing the express prohibition hereof by profiting or benefiting out of transfer of rights in favor of another person, juridical or natural, which as a consequence of such transfer the Transferee/Assignee assumed all rights and obligations to the absolute exclusion of the Seller/Assignor."

32.2 Assignment is likewise prohibited if the Seller shall deliver the required dependable capacity through Modular Generating Units.

Section 33 Miscellaneous Provisions

33.1 Survival. The provisions of Section 17, Section 18, Section 19, Section 20, Section 24, Section 25, Section 30 shall survive the Termination Date. The restrictions contained in Section 24 shall survive for a period of two (2) years after the Termination Date.



- 33.2 Severability of Provisions.** Each provision of this Agreement is severable and distinct from the others and shall remain valid and enforceable to the fullest extent permitted by Applicable Law. If any provision of this Agreement is or at any time becomes to any extent invalid, illegal or unenforceable for any reason, such provision shall to that extent be deemed not to form part of this Agreement, but the validity, legality and enforceability of the remaining parts of this Agreement shall not be thereby affected or impaired.
- 33.3 Waiver.** Neither Party shall be deemed to have waived any right under this Agreement, unless such Party shall have delivered to the other Party a written waiver signed by an authorized officer of such waiving Party. No delay or omission in the exercise of any power or remedy shall be construed to be a waiver of any default or acquiescence therein.
- 33.4 Entire Agreement.** This Agreement constitutes the entire agreement between the Seller and the Buyer concerning the subject matter of this Agreement and supersedes any prior agreement, understanding, undertaking or arrangement between the Parties relating to the subject matter of this Agreement. All previous documents, undertakings and agreements between the Parties concerning the subject matter of this Agreement, whether verbal and or written, unless otherwise made part of this Agreement in accordance with its terms or in the terms of any of the Appendices, are hereby cancelled and deemed void. To clarify:
- 33.4.1 The Schedules to PSA are hereby made an integral part of this Agreement and shall be fully binding upon the Parties.
- 33.4.2 In the event of any inconsistency between the text of the Sections of this Agreement and the Schedules to PSA hereto, the text of the Sections of this Agreement shall be controlling. If any such inconsistency shall become apparent, the Seller and the Buyer shall consult to resolve the inconsistency in a manner consistent with the foregoing.
- 33.4.3 The Parties acknowledge and agree that by entering into this Agreement, they do not rely on any statement, representation, assurance or warranty of any person (whether a Party to this Agreement or not and whether made in writing or not) other than as expressly set out in this Agreement.
- 33.5 Further Covenant of Parties.** Each of the Parties agrees to execute and deliver all such further instruments, including legal opinion from counsel, and to do and perform all such further acts and things, as shall be reasonably necessary or convenient to carry out the provisions of this Agreement.

- 33.6 Third Party Rights.** This Agreement shall not confer any right, benefit or cause of action whatsoever in favor of any person who is not a Party to this Agreement.
- 33.7 Expenses.** Except as otherwise provided in this Agreement, each Party shall pay its own costs and expenses (including, without limitation, the fees and expenses of its agents, representatives, advisors, counsel and accountants) necessary for the negotiation, preparation, execution, delivery, performance of and compliance with this Agreement.
- 33.8 Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the Republic of the Philippines.

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SCHEDULE A MONTHLY FEES

1. Contract Price

Provide the Contract Price components (FC1, FC2, VC1 and VC2) for the Reference Month February 2021 in a table including FC1 from 0 to 100% CUF.

2. Computation of Monthly Fees

The Monthly Fees for each power plant shall be calculated according to the following formula:

$$Fees_{month}^{Plant} = [FC1_{month} + FC2_{month} + VC1_{month} + VC2_{month}] \times Q_{month}^{Plant} \times (1 + VAT)$$

Where:

$Fees_{month}^{Plant}$ – Total charges for a billing month in PhP

$FC1_{month}$ – Applicable Capital Recovery Rate for the billing month

$FC2_{month}$ – Applicable Fixed O&M Rate for the billing month

$VC1_{month}$ – Applicable Variable O&M Rate for the billing month

$VC2_{month}$ – Applicable Fuel Rate for the billing month

Q_{month}^{Plant} – Quantity in kWh delivered by the NPP/s power plant

VAT – Value Added Tax, applicable for non-RE Power Plant only

3. Capital Recovery Rate, FC1

The Capital Recovery Rate for the billing month shall be calculated as follows:

$$FC1_{month} = FC1L_{Base}^{Plant} (CUF_{month})$$

$$CUF_{month} = \frac{Q_{month}}{TDCC \times (H_T - H_{TO} - H_{TFM})}$$

Where:

$FC1_{month}$ – Applicable Price of the fixed capital recovery cost component for the billing month



$FC1L_{Base}^{Plant}(CUF_{month})$ – the local fixed capacity recovery rate ($FC1L$) of the Contract Price which depends on the actual CUF in the billing month

CUF_{month} – Capacity utilization factor in the billing month

$TDCC$ – Total Dependable Contracted Capacity

H_T – Total number of hours of the billing month

H_{TO} – Equivalent Outage Hours for the billing month

H_{TFM} – Equivalent Hours of Outages due to Forced-Majeure for the billing month

4. Fixed O&M Rate, $FC2^1$

The Fixed O&M Rate for the billing month shall be calculated as follows:

$$FC2_{month} = k_L^{FC2} \times FC2L_{Base}^{Plant}(CUF_{month}) \times \frac{PHCPI_{month-1}}{PHCPI_{Feb2021}} + (1 - k_L^{FC2}) \times FC2L_{Base}^{Plant}(CUF_{month}) + k_F^{FC2} \times FC2F_{Base}^{Plant}(CUF_{month}) \times \frac{USCPI_{month-1}}{USCPI_{Feb2021}} \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}} + (1 - k_F^{FC2}) \times FC2F_{Base}^{Plant}(CUF_{month}) \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}}$$

$$FC2L_{Base}^{Plant}(CUF_{month}) = \frac{FC2L_{Base}^{Plant}}{CUF_{month}}$$

$$FC2F_{Base}^{Plant}(CUF_{month}) = \frac{FC2F_{Base}^{Plant}}{CUF_{month}}$$

Where:

$FC2_{month}$ – Applicable Price of the fixed O&M cost component for the billing month

$FC2L_{Base}^{Plant}(CUF_{month})$ – is the value of local fixed O&M cost component ($FC2L$) at a given CUF in the billing month

$FC2L_{Base}^{Plant}$ – the bid price of local fixed O&M cost component ($FC2L$) at 100% CUF

¹ This formula will be simplified in the Final PSA if the Winning Bidder will opt for $k = 100\%$ (i.e., the whole price component will be indexed). The value k allows Bidders to offer a reduced portion of price component to be indexed.





$FC2F_{Base}^{Plant} (CUF_{month})$ – is the value of foreign fixed cost component ($FC2F$) at a given CUF

$FC2F_{Base}^{Plant}$ – the bid price of foreign fixed cost component ($FC2F$) at 100% CUF

$PHCPI_{month-1}$ – is the value of the Philippine Consumer Price Index on the month preceeding the billing month

$PHCPI_{Feb2021}$ – is the base value of the Philippine Consumer Price Index (2012-100) of All Income Households of All Items for the reference month February 2021, equal to 128.100, published by Philippine Statistics Authority. www.psa.gov.ph

$USCPI_{month-1}$ – is the value of the US Consumer Price Index on the month preceeding the billing month

$USCPI_{Feb2021}$ – is the average of the US Consumer Price Index for All Urban Consumers (CPI-U) (1982-84=100), by expenditure category, for the reference month February 2021, equal to 263.014, published by US Bureau of Labor Statistics. www.bls.gov

$FOREX_{month-1}$ – is the value of Monthly Average of Daily Pesos per US Dollar Rate on the month preceeding the billing month published by Bangko Sentral ng Pilipinas. www.bsp.gov.ph

$FOREX_{Feb2021}$ – is the value of Monthly Average of Daily Pesos per US Dollar Rate for the reference month February 2021, equal to PHP48.2042/USD, published by Bangko Sentral ng Pilipinas. www.bsp.gov.ph

k_L^{FC2} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for local fixed O&M ($FC2L$)

k_F^{FC2} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for foreign fixed O&M ($FC2F$)

5. Variable O&M Rate, $VC1^2$

The Variable O&M Rate for the billing month shall be calculated as follows:

² This formula will be simplified in the Final PSA if the Winning Bidder will opt for $k = 100\%$ (i.e., the whole price component will be indexed). The value k allows Bidders to offer a reduced portion of price component to be indexed.



$$\begin{aligned}
 VC1_{month} &= k_L^{VC1} \times VC1L_{Base}^{Plant} \times \frac{PHCPI_{month-1}}{PHCPI_{Feb2021}} + (1 - k_L^{VC1}) \times VC1L_{Base}^{Plant} \\
 &+ k_F^{VC1} \times VC1F_{Base}^{Plant} \times \frac{USCPI_{month-1}}{USCPI_{Feb2021}} \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}} \\
 &+ (1 - k_F^{VC1}) \times VC1F_{Base}^{Plant} \times \frac{FOREX_{month-1}}{FOREX_{Feb2021}}
 \end{aligned}$$

Where:

$VC1_{month}$ – Applicable Price of the variable O&M cost component for the billing month

$VC1L_{Base}^{Plant}$ – is the value of Contract Price for the local variable O & M

$VC1F_{Base}^{Plant}$ – is the value of bid price of foreign variable cost component for O & M

k_L^{VC1} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for local variable O&M ($VC1L$)

k_F^{VC1} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for foreign variable O&M ($VC1F$)

Note: No need to include variables and parameters previously defined above.

6. Fuel Rate, $VC2^3$

The Fuel Rate for the billing month shall be calculated as follows:

$$VC2_{month} = k_L^{VC2} \times VC2L_{Base}^{Plant} \times \frac{FuelIndex_{month-1}}{FuelIndex_{Feb2021}} + (1 - k_L^{VC2}) \times VC2L_{Base}^{Plant}$$

Where:

$VC2_{month}$ – Applicable Price of the fuel cost component for the billing month

$VC2L_{Base}^{Plant}$ – is the value of bid price for local fuel cost component

$FuelIndex_{month-1}$ – is the value of applicable fuel index on the month preceding the billing month (e.g. if the billing month is May 2023, the fuel index shall be taken for the month of April 2023)

³ This formula will be simplified in the Final PSA if the Winning Bidder will opt for $k = 100\%$ (i.e., the whole price component will be indexed). The value k allows Bidders to offer a reduced portion of price component to be indexed.

$FuelIndex_{Feb2021}$ – is the base value of applicable fuel index for the reference month February 2021

For Diesel (LFO) – the calculated average of Low/Hi of all weeks of all stations in Occidental Mindoro published by DOE (DOE Price Watch, South Luzon Prevailing Retail Pump Prices, Occidental Mindoro). For February 2021, equal to PHP38.89/LITER. <https://www.doe.gov.ph/oil-monitor?q=retail-pump-prices-south-luzon>

For Bunker Diesel – the Monthly Average of Daily Prices of Singapore – IFO380 published by Ship&Bunker. For February 2021, equal to US\$ 381.80/mt. <https://www.shipandbunker.com>

For Biodiesel – Monthly prices for coconut oil in nominal U.S. dollars per metric ton published by Statista. For February 2021, equal to US\$ 1,438/mt. <https://www.statista.com/statistics/673372/monthly-prices-for-coconut-oil-worldwide/>

For LNG – the World Bank Commodities Price Data (The Pink Sheet), Natural Gas, LNG Japan published by World Bank. February 2021, equal to USD9.88/MMBTU. <http://www.worldbank.org>

k_L^{VC2} – is the indexation parameter in percent with an effective value between 0 (for no indexation) to 1 (for full indexation) for local fuel cost ($VC2L$)

7. Computation of Monthly Payment of the Buyer (PHP)

$$Payment\ of\ Buyer = SAGR \times Q_{month}^{Plant} \times (1 + VAT)$$

Where:

$SAGR$ – Subsidized Approved Generation Rate

Q_{month}^{Plant} – Quantity in kWh delivered by the NPP/s power plant

VAT – Value Added Tax

**SCHEDULE B
POWER PLANT SPECIFICATIONS, CONNECTION AND METERING POINT**

LOT NO.	AREA	CONNECTION AND METERING POINT
I	SAMARICA	Pulang Lupa, Brgy. Central, San Jose (Figure 2)
		Brgy. Magbay, San Jose (Figure 3)
II	SABLAYAN	Sto. Niño, Sablayan (Figure 2 and 3)
III	MAPSA	Brgy. Tayamaan, Mamburao (Figure 2 and 3)

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**SCHEDULE C
PLANT OPERATING AND MAINTENANCE PROGRAM, AVAILABILITY
DECLARATION, AND DISPATCH SCHEDULE**

1. The Seller shall periodically submit the applicable Plant Operating and Maintenance Program to the Buyer according to the following schedule:
 - a) Three-Year Plant Operating and Maintenance Program: Same day of submission to the System Operator;
 - b) Annual Plant Operating and Maintenance Program: Within one (1) week upon approval by the System Operator of the Seller's Plant Operating and Maintenance Program;
 - c) Monthly Plant Operating and Maintenance Program: Not later than 10:00 a.m. of the 15th day of each calendar month; and
 - d) Weekly Plant Operating and Maintenance Program: Not later than every 10:00 a.m. of Wednesday of each week of the month.

The Seller shall submit its updated Three-Year, Annual, Monthly and Weekly Plant Operating and Maintenance Program to the Buyer within 24 hours after any changes to the POMP had occurred.

2. The Seller shall periodically submit the applicable Availability Declaration to the Buyer according to the following schedule:
 - a) Year Ahead Availability Declaration: Within one (1) week upon approval by the System Operator of the Seller's Plant Operating and Maintenance Program;
 - b) Month Ahead Availability Declaration: Not later than 10:00 a.m. of the 15th day of each calendar month;
 - c) Week Ahead Availability Declaration: Not later than every 10:00 a.m. of Wednesday of each week of the month;
 - d) Day Ahead Availability Declaration: Not later than every 9:00 a.m. of the Operating Day; and
 - e) Real-Time Availability Declaration: Immediately for any changes in the Day-Ahead Availability Declaration as applicable.

The Seller shall submit its updated Year Ahead, Month Ahead and Week Ahead Availability Declaration to the Buyer within 24 hours after any changes to the Availability had occurred.

3. The Buyer and/or the System Operator shall provide the applicable Dispatch to the Seller according to the following schedule:

  

- a) Year Ahead Dispatch Schedule: Within one (1) week upon issuance of the System Operator of the Indicative Year Ahead Dispatch Schedule;
- b) Month Ahead Dispatch Schedule: Within one (1) day upon issuance of the System Operator of the Indicative Month Ahead Dispatch Schedule;
- c) Week Ahead Dispatch Schedule: Within one (1) day upon issuance of the System Operator of the Indicative Week Ahead Dispatch Schedule;
- d) Day Ahead Dispatch Schedule: Within one (1) hour upon issuance of the System Operator of the Committed Day Ahead Dispatch Schedule; and
- f) Real-Time Dispatch Schedule: Immediately for any changes in the Day-Ahead Dispatch Schedule as applicable.

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IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed in more than one copy each of which shall be deemed to be an original as of the date and year first above written.

**OCCIDENTAL MINDORO ELECTRIC
COOPERATIVE, INC. (OMEKO)**

GENCO

By:

By:

RODOLFO PLOPINIO
BOD President

President

CESAR E. FAELDON
Project Supervisor and Acting General Manager

Signed in the presence of:

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ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
_____) S.S.

BEFORE ME, a Notary Public for _____, this ____ day of _____ 20____,
personally appeared:

NAME	GOV'T.ISSUED ID	VALIDITY
Occidental Mindoro Electric Cooperative, Inc. (OMEKO)		
Rodolfo A. Plopinio		
Cesar E. Faeldon		
GENCO		

Known to me and to me known to be the same persons who executed the foregoing instrument and who acknowledged to me that the same is their free and voluntary act and deed and that of the companies they represent.

This instrument refers to a Power Supply Agreement with Schedules _____ to _____ (and all sub-schedules) consisting of _____ (____) pages, including this page where the Acknowledgment is written. Each page of this Agreement has been signed by the party referred to herein and its instrumental witness on all pages hereof and every page is sealed with my notarial seal.

WITNESS MY HAND AND SEAL on the date and place herein above mentioned.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 20____.

 