

**APPENDIX "B"**

**POWER SUPPLY AGREEMENT FRAMEWORK**

The provisions set out below are minimum terms and conditions that are required to be part of every power supply agreement (PSA) executed by distribution utilities (DU) with generation companies (Genco).

It is intended to identify the major elements of a potential transaction that would be embodied in a definitive PSA and provide a sample of the provisions that may be adopted in the drafting of a definitive PSA.

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
1	Parties	<p>The parties should be clearly identified.</p> <p>Seller:</p> <ul style="list-style-type: none"> <li>• Generation Company</li> </ul> <p>Buyer</p> <ul style="list-style-type: none"> <li>• Distribution Utility</li> </ul>	<p><b>[Name of the Seller]</b>, a domestic corporation duly organized and existing by virtue of the laws of the Republic of the Philippines, with principal office address at <b>[Address of the Seller]</b> represented herein by its <b>[Designation of Representative]</b>, <b>[Name of Representative]</b> (hereinafter referred to as "Seller");</p> <p>and</p> <p><b>[Name of the Buyer]</b>, a domestic corporation duly organized and existing by virtue of the laws of the Republic of the Philippines, with principal office address at <b>[Address of the Buyer]</b> represented herein by its <b>[Designation of Representative]</b>, <b>[Name of Representative]</b> (hereinafter referred to as "Buyer");</p> <p>Each of the Seller and Buyer are hereafter individually referred to</p>

	Elements	Discussion	Provision
			as "Party", and together, as the Parties.
2	Recitals	The recitals should set out the scope and purpose of the PSA, which is the sale by the Seller of electricity to the Buyer, and the purchase by the Buyer of electricity from the Seller.	<p>WHEREAS, Seller owns and operates a <b>[registered gross capacity of the Power Plant]</b> MW <b>[Description of the Power Plant]</b> (i.e. coal-fired)] located at <b>[Location of the Power Plant]</b> (the "Power Plant");</p> <p>WHEREAS, Seller agrees and offers to sell <b>[capacity]</b> <b>[and/or energy]</b>, and Buyer agrees to purchase such <b>[capacity]</b> <b>[and/or energy]</b>, upon the terms and subject to the conditions set out in this Agreement;</p> <p>NOW THEREFORE, under the above premises and for and in consideration of the mutual covenants and agreements hereinafter set forth, the Parties, for themselves and their respective successors and assigns, have mutually agreed as follows:</p>
3	Term Contract Period or	<p>The provision should set out the following:</p> <ol style="list-style-type: none"> <li>Date of effectivity of the PSA <ul style="list-style-type: none"> <li>the effective date of a PSA may differ depending on whether the Seller is a new project or existing project, and depending on the date of commencement of</li> </ul> </li> </ol>	<p>The Agreement shall take effect immediately from <b>[Effective Date/Commercial Operations Date]</b> and shall remain in force and effect and terminate <b>[number of years]</b> years from the Effective Date (the "Contract Period") unless sooner terminated in accordance with this Agreement.</p> <p>At any time during the Contract Period, the Parties may enter into good faith negotiations to extend</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<p>supply</p> <ul style="list-style-type: none"> <li>• the parties may distinguish from an effective date / signing date, and a commercial operations date</li> </ul> <p>2. Term of contract period of the PSA. The term of the PSA should not exceed ten (10) years.</p> <p>3. The parties' agreement in relation to the extension or renewal of the PSA. The period of renewal should not be longer than one year.</p>	<p>the Contract Period under the same terms and conditions of this Agreement</p>
4	<p>Effective Date / Commercial Operations Date and Conditions Precedent</p>	<p>The provision sets out the agreement of the parties on when the PSA will become effective and the conditions required before the effectivity of the PSA. The conditions prior to effectivity may vary depending on the agreement of the parties. The common conditions precedent include:</p> <ol style="list-style-type: none"> <li>1. Corporate approvals</li> <li>2. Government authorizations including ERC Approval</li> <li>3. Payment security</li> </ol>	<p><u>Sample Provision with Effective Date:</u></p> <p>The Parties' rights and obligations under this Agreement shall commence on the date following the satisfaction of the following conditions (the "Effective Date"):</p> <ol style="list-style-type: none"> <li>a. Corporate Approvals. The receipt by Seller of a certificate, in form and substance satisfactory to Seller, executed by the corporate secretary or a majority of the board of directors of Buyer, attesting that the board of directors of Buyer has adopted resolutions (i) authorizing Buyer to execute and to</li> </ol>

	Elements	Discussion	Provision
		<p>Note: Effective Date</p> <ul style="list-style-type: none"> <li>• the effective date of a PSA may differ depending on whether the Seller is a new project or existing project, and depending on the date of commencement of supply</li> <li>• the parties may distinguish from an effective date / signing date, and a commercial operations date</li> </ul> <p>The provision should also indicate the agreement of the parties in the event the conditions precedent do not occur within a specific period of time (e.g. sunset clause).</p>	<p>enter into and deliver this Agreement and perform all its obligations hereunder, and (ii) designating the person authorized to execute this Agreement on behalf of Buyer; and</p> <p>b. All Governmental Authorizations which are required to have been obtained in connection with the execution, delivery and commencement of performance of this Agreement shall have been obtained and be in full force and effect;</p> <p>c. Payment Security. The receipt by the Seller of the Payment Security pursuant to Section [●] hereof;</p> <p>Within [number of days] Days after the satisfaction of the conditions referred to in Section [●], Seller shall send a written notice to the Buyer confirming satisfaction of such conditions and indicating the Effective Date.</p> <p><u>Sample Provision with Operations Effective Date:</u></p> <p>Conditions Precedent to Effective Date</p> <p>The Parties' rights and obligations under this Agreement shall commence as of the Effective Date,</p>

	Elements	Discussion	Provision
			<p>following the satisfaction of the following conditions:</p> <p style="text-align: center;">...</p> <p>Conditions Precedent to Operations Effective Date</p> <p>The obligations of the Seller shall commence on Operations Effective Date, provided that the following conditions are satisfied:</p> <ul style="list-style-type: none"> <li>a. Corporate Approvals. The receipt by Seller of a certificate, in form and substance satisfactory to Seller, executed by the corporate secretary or a majority of the board of directors of Buyer, attesting that the board of directors of Buyer has adopted resolutions (i) authorizing Buyer to execute and to enter into and deliver this Agreement and perform all its obligations hereunder, and (ii) designating the person authorized to execute this Agreement on behalf of Buyer; and</li> <li>b. All Governmental Authorizations which are required to have been obtained in connection with the execution, delivery and commencement of performance of this Agreement shall have been obtained and be in full force</li> </ul>

	Elements	Discussion	Provision
			<p>and effect;</p> <p>c. Payment Security. The receipt by the Seller of the Payment Security pursuant to Section [●] hereof;</p> <p><u>Sample Sunset Date Provision:</u></p> <p>In the event that one or all of the conditions precedent required under Section [●] are not satisfied on [Date] (the "Sunset Date"), Seller shall have the sole option and discretion to:</p> <p>(a) terminate this Agreement by delivery of written notice of such termination which termination shall take effect immediately from delivery by Seller of such written notice; and/or</p> <p>(b) waive, modify or grant to Buyer a grace period for the satisfaction of, any condition precedent that has not been satisfied within the prescribed period by delivery of a written notice of such waiver, modification or grant of grace period to Buyer.</p>
5	Seller's Obligations	<p>The provision should set out Seller's obligation to deliver electricity to the Buyer.</p> <p>The provision may also indicate the instances when the Seller is not required to supply due to:</p> <ul style="list-style-type: none"> <li>• Event of Force Majeure affecting</li> </ul>	<p>Beginning on the Effective Date until the termination or expiration of this Agreement, Seller shall supply and deliver [<b>Contract Capacity and/or Contract Energy</b>] (whether from the capacity of the Power Plant or the power plants owned or operated by any of its Affiliates, WESM, if any, or any other supplier) to Buyer at the Delivery Point, and</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<p>Seller;</p> <ul style="list-style-type: none"> <li>• Instructions from or omissions of the system operator;</li> <li>• Seller's scheduled outage, provided that the equivalent number of days under such scheduled outage shall not exceed the scheduled outage allowance;</li> <li>• Seller's forced outage, provided the equivalent number of days under such forced outage shall not exceed the forced outage allowance</li> </ul>	<p>the Buyer shall purchase and pay Seller the [<b>Contract Capacity and/or Contract Energy</b>] at the Contract Price.</p>
6	Buyer's Obligations	<p>The provision should set out the Buyer's obligation to purchase electricity from the Seller.</p> <p>The provision may also indicate the instances when the Buyer is not required to purchase due to:</p> <ul style="list-style-type: none"> <li>• Event of Force Majeure affecting Buyer;</li> <li>• Curtailment;</li> </ul>	<p>Beginning on the Effective Date until the termination or expiration of this Agreement, Seller shall supply and deliver [<b>Contract Capacity and/or Contract Energy</b>] (whether from the capacity of the Power Plant or the power plants owned or operated by any of its Affiliates, WESM, if any, or any other supplier) to Buyer at the Delivery Point, and the Buyer shall purchase and pay Seller the [<b>Contract Capacity and/or Contract Energy</b>] at the Contract Price.</p>
7	WESM Operations	<p>The provisions set out the agreement of the parties on the nomination</p>	<p>Buyer shall furnish Seller with its hourly nomination of demand on a daily, weekly, and monthly basis in</p>

Elements	Discussion	Provision
	<p>procedures, which may be described in detail in a schedule / annex attached to the Agreement.</p> <p>The operating procedures differ between a WESM environment and a non-WESM environment (e.g., PSA transpiring under a non-WESM grid or under OATS Rules).</p> <ul style="list-style-type: none"> <li>• WESM Environment: usually consists of protocols on year-ahead, month-ahead, week-ahead, day-ahead</li> <li>• Non-WESM Environment:</li> </ul>	<p>accordance with the procedure set out in Schedule [●].</p> <p><u>Sample Outline for WESM Environment:</u></p> <p>7.1 Nominations 7.2 Failure to Declare or Accept Nominations 7.3 Confirmation of WESM Quantities</p> <p><u>Sample Provision for WESM Environment:</u></p> <ol style="list-style-type: none"> <li>1. For administrative and planning purposes only, Buyer shall furnish Seller with non-binding year-ahead, month-ahead and week-ahead nominations of Contract Capacity in accordance with the WESM Rules and the Operating Procedures. Such nominations shall reflect Buyer's good faith estimate of its projected capacity requirements for such period. Buyer shall furnish Seller with the year ahead-nominations, the month-ahead nominations and the week-ahead nominations in accordance with Schedule [●].</li> <li>2. Within [●] ([●]) Days after the [Effective Date/Operations Effective Date], Seller shall furnish Buyer its capacity availability schedule for the first Contract Year. Within [●] ([●]) Days of receipt of the capacity availability schedule for the first</li> </ol>



	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>Contract Year, Buyer shall furnish Seller with its non-binding year-ahead energy nomination for the first Contract Year.</p> <p>3. Buyer shall furnish Seller with binding day-ahead nominations on an hour-by-hour basis, in accordance with the WESM Rules and the Operating Procedures. Seller shall accurately reflect such day-ahead nominations in its daily report of bilateral contract quantities submitted to the Market Operator in accordance with the WESM Rules.</p> <p>4. Seller shall furnish Buyer with its day-ahead capacity availability schedule not later than [●]H of each Day. Buyer shall furnish Seller with its day-ahead nominations not later than [●]H of each Day. If Seller does not furnish Buyer with its day-ahead capacity availability schedule in accordance with this Section [●], the capacity schedule for the same Day as set forth in the relevant week-ahead schedule shall be deemed the schedule for such Day. If Buyer does not furnish Seller with its day-ahead nominations in accordance with this Section [●], the nominations for the same Day as set forth in the relevant week-ahead nomination shall be deemed the nominated quantity for such Day.</p>

Elements	Discussion	Provision
		<p><u>Sample Provision for Non-WESM Environment:</u></p> <p>Year Ahead</p> <ol style="list-style-type: none"> <li>1. For the first Contract Year, Seller shall submit the Year Ahead Plant Capability (“YAPC”) five (5) days before [Effective Date / Operations Effective Date]. Buyer shall confirm receipt of the YAPC within twenty-four (24) hours. Buyer shall submit the Year Ahead Load Nomination (“YALN”) five (5) days after the receipt of the YAPC.</li> <li>2. For the succeeding Contract Year, Seller shall submit the YAPC one hundred twenty (120) days before the starting date of the Contract Year. Buyer shall confirm the receipt of YAPC within 24 hours. Buyer shall submit the YALN ninety (90) days before the starting date of the Contract Year. Seller shall confirm the receipt of the YALN within 24 hours.</li> <li>3. The YALN shall be in monthly energy nomination format taking into account the planned maintenance outage submitted by Seller. The YAPC shall be on an hour-by-hour basis of the hourly estimate of capacity availability (in kW) in accordance with contract</li> </ol>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>capacity and the planned maintenance outages as approved by System Operator.</p> <p>Month Ahead</p> <ol style="list-style-type: none"> <li>4. Seller shall submit the Month Ahead Plant Capability (“MAPC”) every 18<sup>th</sup> of the month preceding the trading month. The MAPC shall be on an hour-by-hour basis of the hourly estimate of capacity availability (in kW) in accordance with contract capacity and the planned maintenance outages as approved by System Operator.</li> <li>5. Buyer shall submit a Month Ahead Load Nomination (“MALN”) containing its hourly nominations for the immediately succeeding billing period. The MALN shall contain the Buyer’s daily load requirements, on an hour-by-hour basis, and shall be submitted by Buyer to Seller every 19<sup>th</sup> of the month preceding the trading month, not later than 12nn. If the 19<sup>th</sup> falls on a Saturday, or Sunday, Buyer shall submit on the Friday before the Saturday or Sunday. If the 19<sup>th</sup> falls on a Holiday, Buyer shall submit on the workday before the Holiday. In case Buyer requires</li> </ol>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>revisions to other subsequent billing periods, it has the option to submit such revised nominations together with its submission for MALN.</p> <p>6. Upon receipt of the MALN from Buyer, Seller shall verify and confirm the same and send such confirmation not later than 3:00 P.M. of the same day.</p> <p>Week-Ahead</p> <p>7. Seller shall submit to Buyer the Week Ahead Plant Capability ("WAPC") (Monday to Sunday) containing the hourly estimate of capacity availability (in kW) in accordance with contract capacity and the planned maintenance outages as approved by System Operator, every Thursday not later than 10am.</p> <p>8. Buyer shall submit to Seller the Week Ahead Load Nomination ("WALN") (Monday to Sunday) containing its daily load requirements on an hour-by-hour basis, every Thursday not later than 12nn.</p> <p>9. Upon receipt of the WALN, Seller shall verify and confirm the same and send such confirmation to Buyer not later than 3:00 P.M. of the same day.</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>Day-Ahead</p> <p>10. Buyer shall submit to Seller the Day Ahead Nomination Load Schedule (“DANLS”) containing its hourly load requirements, for the next day not later than 12nn of the current day. Upon receipt from Buyer of the DANLS, Seller shall verify and confirm the same and send such confirmation to Buyer not later than 3:00 P.M. of the same day.</p> <p>11. In case of non-submittal of DANLS, standing WALN shall apply with reference to the applicable day.</p>
8	Transmission and Interconnection	The provision sets out the obligations of the parties regarding transmission and interconnection.	<p>Seller [has entered / is in the process of entering] into a Connection Agreement and Transmission Service Agreement with NGCP to connect the Plant to the Grid.</p> <p>At all times from and after the [Effective Date / Operations Effective Date] (or earlier if required by Prudent Operating Practices), all interconnection, transmission and other agreements necessary for Seller to perform its obligations hereunder (including the Connection Agreement and Transmission Service Agreements) shall be in full force and effect.</p> <p>The Buyer shall bear all costs of</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			such transmission service, including line rental charges, from the Delivery Point up to the Receiving Point including the cost of any electric losses incurred in such transmission.
9	Outages	The provision provides for the agreement of the parties on the number of allowed outages as may be indicated in a schedule to be attached to the Agreement. The outages will vary from plant to plant.	<p>Scheduled Outages</p> <p>(a) The Seller is allowed Scheduled Outages not to exceed the number of days as set forth in Schedule [●] (average is thirty (30) days), for each Contract Year during which times reduced or no deliveries will be available to the Buyer.</p> <p>Forced Outages</p> <p>(b) The Seller is allowed Forced Outages not to exceed the number of days as set forth in Schedule [●] (average is fifteen (15) days) for each Contract Year during which times reduced or no deliveries will be available to the Buyer.</p>
10	Replacement Power / Backup Power	The provision sets out the agreement of the parties with regard to the procurement and payment of replacement power and backup power in case of outages, the procedure and notice requirements, and the cost for replacement	The provisions will vary depending on the requirements of the Buyer (e.g., Seller shall purchase Replacement Power from the WESM and Buyer shall reimburse such cost provided Seller has not exceeded its Forced Outage Allowance).

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<p>power and backup power.</p> <p>Terms:</p> <ul style="list-style-type: none"> <li>• Replacement Power (Forced Outages and Force Majeure)</li> <li>• Backup Power (Scheduled Outages)</li> </ul> <p>The Buyer should indicate its requirements with respect to replacement power and backup power</p>	
11	Regulatory Approvals	The provision sets out the obligation of the parties to secure necessary regulatory approvals.	The obligations of the Seller to sell and deliver the [ <b>Contract Capacity and/or Contract Energy</b> ], or cause the [ <b>Contract Capacity and/or Contract Energy</b> ] to be delivered, to the Buyer hereunder are subject to the Parties having obtained all required governmental approvals and permits including, without limitation, with respect to the Buyer, any required approvals from the ERC or the WESM.
12	Change in Law	<p>The provision sets out the agreement of the parties on how to address any changes in regulation and law that may affect or require amendment of the PSA.</p> <p>The parties may include the following provisions:</p> <ul style="list-style-type: none"> <li>• If there is any material adverse</li> </ul>	Buyer and the Seller acknowledge that, given the ongoing evolution of the WESM and regulations governing the electricity market, there may be circumstances that require the Parties to amend this Agreement. Both Buyer and Seller shall endeavor to implement such amendments, especially as they relate to full compliance with Applicable Laws.

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<p>change resulting from a change in law (increase or decrease in cost requiring a corresponding increase or decrease in the Seller's power rate), the parties will meet to discuss.</p> <ul style="list-style-type: none"> <li>• If the parties agree to amend the PSA, the parties will apply for ERC approval. If ERC approval is not secured within [•], the parties will have [•] days to come to an agreement. If no agreement is reached within the period, the parties may terminate the PSA.</li> <li>• If the parties do not agree, i.e., the DU disputes the amendment or its cost and power rate impact, the parties shall submit the dispute to the ERC for dispute resolution</li> </ul>	
13	Reduction of Contract Capacity on account of	The provisions sets out the agreement of the parties for any reduction of Contract Capacity on	From time to time upon and after the implementation of Retail Competition and Open Access, Buyer shall deliver to Seller



	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
	RCOA	account of retail competition and open access within thresholds allowed by law (contestability) and with proper notice periods. The parties may agree on a protocol on the foregoing.	<p>written notice specifying the reduction in Contract Capacity and Associated Energy resulting from the implementation of Retail Competition and Open Access, indicating when such reductions shall take place. Any such reduction shall be limited to an amount up to (but not exceeding) the amount of energy in respect of Contestable Customers of Buyer. Except for such reduction of amount of Contract Capacity and Associated Energy to be specified by Buyer (including the resulting reduction in Capacity Payments and Energy Payments payable under this Agreement), all other terms and conditions of this Agreement shall remain in full force and effect.</p> <p>The Parties shall agree on and prepare the protocol to implement the reduction in the amount of Contracted Capacity as a result of the implementation of Retail Competition and Open Access.</p>
14	Payment Security	<p>The provision provides for the agreement of the parties on their agreements with respect to payment security and other forms of security:</p> <p>The provisions may include the following:  <b>Payment Security Amount &amp; Form</b></p> <ul style="list-style-type: none"> <li>• Amount: not to</li> </ul>	<p>The provisions will vary depending on the security agreed upon by the parties.</p> <p><u>Sample Outline:</u></p> <p>14.1 Payment Security Amount &amp; Form  14.2 Other Security  14.3 Waiver of Payment Security</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<p>exceed 200% of estimated highest monthly power bill (with mechanism to adjust rate)</p> <ul style="list-style-type: none"> <li>• Form: Cash (deposited in a special account) or Letter of Credit</li> <li>• Interest income earned on cash Payment Security shall be for the DU</li> </ul> <p>Other Security</p> <ul style="list-style-type: none"> <li>• Seller may require additional, supplemental or complementary payment security such as escrow agreement or holdout agreement</li> </ul> <p>Waiver of Payment Security</p> <ul style="list-style-type: none"> <li>• Provide conditions when Payment Security and/or Other Security may be reduced or waived</li> </ul>	
15	Force Majeure	This provision sets out the concept and instances of force majeure, effect of force majeure to the obligations of the Seller and the Buyer, the provision of replacement power during force	<p><u>Sample Outline:</u></p> <p>15.1 Force Majeure  15.2 Instances of Force Majeure  15.3 Effect of Force Majeure  15.4 Replacement Power During Force Majeure Events  15.5 Effect of Uninsured Events of</p>

Elements	Discussion	Provision
	<p>majeure, effect of uninsured events of force majeure, and effect of extended force majeure. The provision also include the procedures for force majeure events. The Force Majeure provision may be drafted taking into consideration the special circumstances of each of the parties.</p>	<p>Force Majeure  15.6 Effect of Extended Force Majeure  15.7 Certain Events Not Excused  15.8 Notice of Force Majeure; Procedure  15.9 Force Majeure Events Affecting DU</p> <p><u>Sample Provision on Force Majeure:</u></p> <p>Events of Force Majeure</p> <p>An Event of Force Majeure shall mean any circumstance not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that:</p> <p>(a) such circumstance, despite the exercise of reasonable diligence, cannot be prevented, avoided or removed by such Party; and  (b) such event prevents such Party from performing its obligations under this Agreement;</p> <p>and in each case:</p> <p>(i) such Party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on such Party's ability to perform its obligations under this Agreement and to mitigate the consequences thereof;  (ii) such event is not the</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>direct or indirect result of the failure of such Party to perform any of its obligations under this Agreement;</p> <p>(iii) the suspension of a Party's performance of its obligations hereunder is of no greater scope and no longer duration than is required by the Event of Force Majeure;</p> <p>(iv) no obligation of either Party, which arose before the occurrence of the event that caused the suspension of performance of obligations hereunder, shall be excused as a result of an Event of Force Majeure; and</p> <p>(v) such Party has given the other Party prompt notice describing such event, the effect thereof and the actions being taken in order to comply with this Section.</p> <p><u>Sample Provision on Instances of Force Majeure:</u></p> <p>a) acts of war or the public enemy whether war is declared or not;</p> <p>b) public disorders, insurrection, rebellion, acts or campaigns of terrorism, piracy, embargo, sabotage, riots or violent demonstrations;</p> <p>c) explosions, fires, earthquakes, tsunami, flood,</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>cyclone, volcanic eruptions, mudslide or other natural disasters, acts of God, radioactive contamination or ionizing radiation, epidemic, quarantine or plague;</p> <p>d) any action or aggregation of actions or failure to act by any Governmental Instrumentality, including expropriation, requisition, confiscation, nationalization or other compulsory acquisition; the denial of or delay in the granting of any approval, consent, authorization or other requirement mandated by any Legal Requirement, the failure of any such approval, consent, authorization or other requirement once granted to remain in force and effect or to be renewed on substantially similar terms;</p> <p>e) strikes, lockouts or other collective or industrial action by workers or employees other than non-manual personnel; provided that any Party that seeks to invoke such a strike, lockout or other collective or industrial action as an Event of Force of Majeure must first utilize all reasonable efforts to continue performance of its obligations hereunder;</p> <p>f) any System Emergency (except if due to the act or</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>omission of the Party seeking to claim an Event of Force Majeure, unless otherwise due to an Event of Force Majeure);</p> <p>g) appropriate actions taken in response to any orders, warnings or advice given by a Governmental Instrumentality or the System Operator for safety reasons to implement emergency shutdown (except if due to the act or omission of the Party seeking to claim an Event of Force Majeure, unless otherwise due to an Event of Force Majeure);</p> <p>h) Transmission failure; and</p> <p>i) System operator curtailment.</p>
16	Events of Default	This provision sets out the events when the Buyer or Seller may be considered in default of their obligations under this Agreement. The Events of Default provision may be drafted taking into consideration the special circumstances of each of the parties.	<p>Events of Default</p> <p>Each of the events described below shall constitute an Event of Default, provided that such events (with the exception of Section (a)) result to, in the case of the Seller, an actual failure to deliver to the Buyer the required [Contract Capacity and Associated Energy]; or, in the case of the Buyer, an actual failure to accept from, or pay to, the Seller the [Contract Capacity and Associated Energy Payments]. An “Event of Default” shall mean, with respect to the relevant Party (such Party being, in respect of the Event of Default, a “Defaulting Party” and the other Party being the “Non-Defaulting</p>

	Elements	Discussion	Provision
			<p>Party”):</p> <p>(a) A Party fails to make any payment required pursuant to this Agreement when due and payable and such payment is not made within [no. of days] days after the due date;</p> <p>(b) A Party breaches any of its material representations, warranties, covenants or obligations under this Agreement;</p> <p>(c) A Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law;</p> <p>(d) A Party becomes bankrupt or there occurs a default, event of default or other similar condition or event in respect of the Buyer under one or more agreements or instruments to which it is</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>a party; (e) [Other Events of Default].</p> <p>provided that for Events of Default under Sections (c), (d) and (e), the Defaulting Party shall have [no. of days] days from receipt of a written notice specifying in reasonable detail the relevant Event of Default (the "Notice of Default") from the Non-Defaulting Party within which to cure or discharge such default, for Events of Default under (b), the Defaulting Party shall have [no. of days] days from receipt of the Notice of Default within which to cure such default, and for Events of Default under Section (a), the Defaulting Party shall have [no. of days] days from receipt of the Notice of Default within which to cure such default, (each of such periods being referred to as a "Cure Period").</p> <p>Notice of Default and Termination Upon Event of Default</p> <p>In case an Event of Default is not cured within the applicable Cure Period, the Non-Defaulting Party may terminate this Agreement in accordance with Section [●], and may pursue any remedy available to it under this Agreement or at law.</p>
17	Termination	The provisions set out the agreement of the parties	Sample Outline:



	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<p>as to the events that will cause the termination of the Agreement and the consequences of termination, as well as the procedure for termination.</p>	<p>17.1 Termination upon Event of Default</p> <p>17.2 Termination other than upon Event of Default</p> <ul style="list-style-type: none"> <li>a) Non fulfillment of Conditions Precedent to Effectivity</li> <li>b) Termination upon expiry</li> <li>c) Termination upon mutual agreement</li> <li>d) Termination upon Certain Events of Force Majeure (e.g., uninsured Force Majeure, Extended Force Majeure)</li> </ul> <p>17.3 Other Rights and Remedies</p> <p>Sample Provisions:</p> <p>Termination upon Event of Default</p> <p>Following the occurrence of an Event of Default, the following procedure shall apply:</p> <p>(a) The Party which is not the subject of such Event of Default may give a notice (a "Termination Notice") to the other Party, specifying in reasonable detail the Event of Default giving rise to such Termination Notice, and the date on which the Party giving such Termination Notice proposes to terminate this Agreement, which date shall not be less than [•] ([•]) Days after the date of such notice. If upon the date specified in the Termination Notice, the event</p>

	Elements	Discussion	Provision
			<p>giving rise to the Termination Notice is subsisting, then this Agreement shall terminate on such date or such later date as the Parties may agree and Section [●] shall apply;</p> <p>(b) During the period of [●] ([●]) Days (or such longer period set out in the Termination Notice or as the Parties may agree) following the giving of such Termination Notice, the Parties shall consult as to what steps shall be taken with a view to mitigating or remedying the consequences of the relevant event having regard to all the circumstances;</p> <p>(c) If the Party receiving the Termination Notice intends to raise a Dispute regarding the right to give effect to the Termination Notice (the "Termination Notice Dispute") and to refer such Termination Notice Dispute to arbitration pursuant to Section [●], such Party shall within [●] ([●]) Days of receipt of the Termination Notice so inform the Party giving the Termination Notice and shall immediately thereafter refer the Termination Notice Dispute to arbitration in accordance with Section [●]; and</p> <p>(d) In circumstances where the Party in receipt of the</p>

	Elements	Discussion	Provision
			<p>Termination Notice has referred a Termination Notice Dispute for resolution in accordance with Section [●](c) above, if:</p> <p>(i) at any time after the expiry of the period referred to in Section [●](a), the event giving rise to the Termination Notice has not been remedied; and</p> <p>(ii) the Termination Notice Dispute has been determined in favor of the Party who has issued the Termination Notice,</p> <p>then the Party having given the Termination Notice may terminate this Agreement by giving further written notice thereof to the other Party, whereupon this Agreement shall terminate on the date specified for termination in such notice (which date shall be not less than [●] ([●]) Days after the date of such notice) or such later date as the Parties shall have agreed and Section [●] shall apply.</p> <p>Termination Upon Other than Event of Default.</p> <p>(a) Nonfulfillment of Conditions Precedent to Effectivity. If any condition to the [Effective Date / Operations Effective Date] has not been</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>fulfilled on or before [●], then either Party has the right to terminate this Agreement by giving written notice of such termination to the other Party, provided that the fulfilment of such condition is not within the control of the Party seeking to give such notice. Upon the giving of notice of termination, this Agreement shall terminate on the date specified for termination in such notice, which date shall not be earlier than [●] ([●]) Days from the date of such notice.</p> <p>(b) Termination on Expiry. This Agreement shall terminate on the Agreement Termination Date unless otherwise extended in accordance with this Agreement.</p> <p>(c) Termination Upon Mutual Agreement. This Agreement may be terminated at any time upon the mutual agreement of both Parties.</p> <p>(d) Termination in the Event of Certain Events of Force Majeure. If an event of Force Majeure occurs under the circumstances and having the consequences described in Section [●], then this Agreement shall be</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>terminated, by notice of either Party delivered to the other Party within [no. of days] days after the end of such [no. of days] day period. If any Force Majeure is expected by the Claiming Party to exceed [no. of days] days then the Claiming Party may give notice to the other Party at any time of the Claiming Party's desire to terminate this Agreement. The Non-Claiming Party shall notify the Claiming Party, within [no. of days] days of the receipt of such notice, of either: (1) its acceptance of the notice, in which case this Agreement shall terminate effective on the date of such responsive notice; or (2) its disagreement with the Claiming Party's expectation of the duration of such Force Majeure event, in which case the dispute shall be resolved pursuant to Article Nine.</p> <p>(e)[Termination in the Event of Change in Law. If a Change in Law materially and adversely affects the ability of a Party to perform its obligations under this Agreement, affects the sale or purchase of Contracted Capacity in accordance with this Agreement, makes the administration or</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>operational aspects of such performance materially more burdensome (whether made at the direction of any governmental agency or authority or otherwise) or causes or may cause serious damage to, or materially and adversely affects the financial condition of a Party, the affected Party may give notice to the other Party, specifying the Change in Law and its effects on the notifying Party. The Parties shall enter into good faith negotiations to agree on a satisfactory solution regarding the amendment of this Agreement to restore the notifying Party's commercial position prior to the Change in Law, including an adjustment of the Price. If the Parties fail to reach a mutually satisfactory resolution within [no. of days] days from the commencement of negotiations, the Party that is adversely affected by the Change in Law may terminate this Agreement upon [no. of days] days prior written notice to the other Party.]</p>
18	Liquidated Damages	The provision will provide the agreement of the parties with respect to liquidated damages.	<p>Liquidated Damages</p> <p>Upon the occurrence of an Event of Default, the Non-Defaulting</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<p>Suggested Liquidated Damages</p> <ul style="list-style-type: none"> <li>• Present value at a discounting rate of [6]% per annum of latest non-fuel portion of the PSA rate multiplied by monthly contract quantity for the remaining period of the PSA from termination of PSA to remaining term of PSA</li> </ul>	<p>Party shall be entitled to liquidated damages, in lieu of all other damages to which it may be entitled, in an amount equal to the sum of the present value of the [●] multiplied by [●] for the remaining Term of the Agreement at a discount rate of [●] percent ([*]%) (the "Liquidated Damages").</p>
19	Billing and Payment	<p>The provision sets for the procedure for billing and payment, including procedures for any disputes between Buyer and Seller in relation to billing and payment, should be described in this provision and should include:</p> <ul style="list-style-type: none"> <li>• No offsetting</li> <li>• No withholding of disputed amounts, except for manifestly patent and erroneous amounts/invoices</li> <li>• If an invoice is not disputed within 90 days after payment, it is deemed to be accepted, final and binding to the Buyer and Seller</li> </ul>	<p>The provisions will vary depending on the billing and payment protocols of the parties.</p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
20	Limitations on Liability	The provision should set out the limitations on the liability of the parties. The sample provision provided is what is commonly found in most PSAs and other agreements.	Neither Party shall be liable to the other in any event for loss of profits, or for any indirect, special or consequential losses or damages, whether arising under tort, contract or otherwise, in respect of or in connection with this Agreement (without prejudice to the payment of any such losses or damages which have been or may be deemed included in the calculation of any amount comprised within the Contract Price and the payment of any other amount agreed by a Party to be payable by it to the other Party in accordance with this Agreement and the conditions hereof).
21	Dispute Resolution	The provision sets out the agreement of the parties on the resolution of disputes. The provision may be drafted taking into consideration the special circumstances of each of the parties.	Executive Resolution / Amicable Settlement  Subject to the provisions of Section [•], on Termination Payment disputes, and Section [•], with respect to billing disputes, if any dispute or disagreement shall arise between the Parties in connection with or arising out of this Agreement, either Party may request in writing that the respective chief executive officers of the Seller and the Buyer meet within [no. of days] days and attempt to resolve the dispute. In



	Elements	Discussion	Provision
			<p>the event such officers are unable to resolve such dispute within [<b>no. of days</b>] days after such notice, upon written request of either Party, such dispute shall be arbitrated pursuant to Section [<b>•</b>] below. Except as otherwise provided in this Agreement, any disagreement, dispute, controversy or claim arising out of or relating to this Agreement shall be settled exclusively and finally by commercial arbitration as provided below:</p> <p>For disputes not within the exclusive jurisdiction of the ERC:</p> <p>Commercial Arbitration. In the event that the Parties fail to resolve a dispute pursuant to Section [<b>•</b>], Section [<b>•</b>] and Section [<b>•</b>] above, the Party initiating the arbitration proceedings may request for commercial arbitration. Within [<b>no. of days</b>] days after receipt of such request, each Party's authorized representative shall confer with the other and attempt to agree upon the appointment of a single arbitrator. If such agreement is not accomplished, either Party may request the [<b>Arbitral Body (i.e. International Chamber of Commerce)</b>] to appoint an arbitrator familiar with the industry standards for international private power facilities in accordance with the [<b>Arbitral Body (i.e.</b></p>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p><b>International Chamber of Commerce)]</b> Rules, which rules shall govern the conduct of the arbitration in the absence of a contrary agreements between the Parties. The language to be used shall be English. The arbitrator shall not have the power to add or amend this Agreement. The Parties exclude any right of application or appeal to any courts in connection with any question of law arising in the course of arbitration or with respect to any award made. Subject to such limitation, the decision of the arbitrator shall be final and binding, and the arbitrator shall be entitled to grant awards compelling specific performance or restraining any actual or threatened breach of any material obligation of the Agreement. The decision shall determine and specify how the expenses of the arbitration shall be allocated.</p>
22	Miscellaneous Provisions	<p>These miscellaneous provisions may include:</p> <ul style="list-style-type: none"> <li>▪ Representations and Warranties of the Parties</li> <li>▪ Title and Risk of Loss</li> <li>▪ Indemnity</li> <li>▪ Assignment and Transfer</li> <li>▪ Language</li> <li>▪ Governing Law (Philippine Law)</li> </ul>	

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
		<ul style="list-style-type: none"> <li>▪ Notices</li> <li>▪ Entire Agreement</li> <li>▪ Confidentiality</li> <li>▪ Severability</li> <li>▪ Survival</li> <li>▪ Amendment</li> <li>▪ Third Party Rights</li> <li>▪ Expenses</li> <li>▪ Counterparts</li> <li>▪ No Partnership</li> <li>▪ Waiver</li> <li>▪ Further Acts and Assurances</li> </ul>	
23	Schedules / Annexes	<p>The schedules / annexes may include the following:</p> <ol style="list-style-type: none"> <li>1. Technical Description/Limits of the Power Plant</li> <li>2. Contract Quantities (Contract Capacity and/or Contract Energy)</li> <li>3. Power Rate and Calculations of Payments (Contract Price/Calculation of Payment)</li> <li>4. Nomination and Dispatch Protocol</li> <li>5. Details of the Payment Security</li> <li>6. Outages (may be included in Contract Quantities)</li> <li>7. Invoicing and Payment Procedures</li> </ol>	
24	Annex for Contract	This annex provides for the contract quantities	<u>Sample Outline:</u>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
	Quantities	and pertinent definitions of terms.	<b>CONTRACT QUANTITIES</b> 1. Definition of Terms and Formulas <ul style="list-style-type: none"> <li>• Associated or Actual Energy</li> <li>• Contract Capacity</li> <li>• Force Majeure Equivalent Days</li> <li>• Forced Outage Equivalent Days</li> <li>• Scheduled Outage Equivalent Days</li> </ul> 2. Table showing monthly Contract Capacity and Contract Energy (when applicable)
25	Annex for Power Rate and Calculations of Payments	This annex provides for the power rate and calculations. Sample calculations can also be included for reference purposes.	<u>Sample Outline:</u>  <b>POWER RATE AND CALCULATION OF PAYMENTS</b> 1. Payment Structure <ul style="list-style-type: none"> <li>1.1. Power Rate Structure/Formula</li> <li>1.2. Reimbursables               <ul style="list-style-type: none"> <li>a) Replacement Power</li> <li>b) Backup Power</li> <li>c) Others (e.g., WESM charges and line rentals, ancillary charges, costs pursuant to Republic Act No 9513, etc.)</li> </ul> </li> </ul> 2. Sample Calculations
26	Annex for Nomination and Dispatch Protocols	This annex provides for the protocols on nomination and dispatch. Note that the protocols may differ depending on whether the parties are operating in WESM or non-WESM regulatory environments.	<u>Sample Outline:</u>  <b>OPERATING PROCEDURES</b> 1. Definitions 2. Communications Channels & Contacts 3. WESM Procedures <ul style="list-style-type: none"> <li>3.1. Annual, Monthly, and Weekly Energy Nomination</li> </ul>

	<b>Elements</b>	<b>Discussion</b>	<b>Provision</b>
			<p>Schedule</p> <p>3.2. Day-Ahead Nominations</p> <p>3.3. Day-After BCQ Declarations</p> <p>3.4. Monthly Confirmation of BCQs</p> <p>4. Procedures on Scheduled Maintenance and its Implementation</p> <p>4.1. Scheduling with System Operator</p> <p>4.2. Notification and Changes</p> <p>5. Procedures During Forced Outages</p> <p>6. Sample Forms for WESM Nominations and BCQ Confirmations</p>