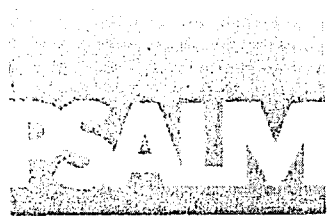


The Republic of the Philippines

Sale of the

**650 MW Malaya Thermal Power Plant
and Its Underlying Land
Located in Pililla, Rizal**

(Third Round of Public Bidding)



**POWER SECTOR
ASSETS & LIABILITIES
MANAGEMENT CORPORATION**

Supplemental Bid Bulletin No. 9

12 August 2020

**SUPPLEMENTAL BID BULLETIN NO. 9
FOR THE SALE OF THE 650 MW MALAYA THERMAL POWER PLANT
AND ITS UNDERLYING LAND LOCATED IN PILILLA, RIZAL
(THIRD ROUND OF PUBLIC BIDDING)**

1. NOTICE TO BIDDERS

Bidders are hereby notified of the amendments, revisions, modifications and clarifications to the Bidding Procedures dated 31 January 2020 for the Sale of the 650 MW Malaya Thermal Power Plant and Its Underlying Land located in Pililla, Rizal.

In accordance with the Bidding Procedures, Bidders are required to acknowledge receipt and acceptance of the terms and conditions of the Bidding Procedures and each Supplemental Bid Bulletin on the space provided in the Letter of Transmittal accompanying this Supplemental Bid Bulletin.

Failure to acknowledge receipt and acceptance of the terms and conditions of the Bidding Procedures and each Supplemental Bid Bulletin may cause the Bid to be considered as not responsive to the Bidding Procedures, which could result in the disqualification and/or rejection of the Bid.

In any case, it is conclusively presumed that the Bidder in preparing the Bid has taken into account the information and procedures set forth herein in the Bidding Procedures and in the subsequent Supplemental Bid Bulletins.

2. AMENDMENT TO THE DRAFT ASSET PURCHASE AGREEMENT

The Committee hereby informs the Qualified Bidders of the following PSALM Board-approved changes to the draft Asset Purchase Agreement issued as part of the Bidding Package, subject to clearance from the Office of the Government Corporate Counsel (OGCC):

Section	Proposed Revision
13.09 Assignment, Successors, and No Third-Party Rights	<p><i>The Winning Bidder</i> may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of SELLER. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon and inure to the benefit of each of the Party's respective successors and permitted assigns. Nothing in this Agreement will be construed to give any person, other than the Parties, any legal or equitable right, remedy or claim with respect to this Agreement or any provision of this Agreement except such rights as shall inure to a successor or permitted Assignee pursuant to this Section.</p> <p><u><i>In the event that the Winning Bidder wishes to assign its rights, liabilities and obligations to the Winning Bidder's Assignee, the Winning Bidder must submit to PSALM within five (5) Business Days from receipt of the Notice of Award the following documents before PSALM can approve such assignment:</i></u></p>

Section	Proposed Revision
	<p>a) <u>Written notification that it intends to assign its rights, liabilities and obligations under this Agreement to the Winning Bidder's Assignee;</u></p> <p>b) <u>Duly notarized Deed of Assignment of all Rights, Liabilities and Obligations under this Agreement, between the Winning Bidder and the Winning Bidder's Assignee;</u></p> <p>c) <u>Guarantee issued by the Winning Bidder in favor of the Winning Bidder's Assignee;</u></p> <p>d) <u>Board Resolution issued by the Winning Bidder approving the assignment to the Winning Bidder's Assignee; and</u></p> <p>e) <u>Board Resolution issued by the Winning Bidder's Assignee accepting the assignment and approving the assumption of all rights, liabilities and obligations of the Winning Bidder as BUYER under this Agreement.</u></p> <p><u>In the event that PSALM approves the assignment, PSALM as the SELLER and the Winning Bidder's Assignee as the BUYER shall execute a new set of this Agreement.</u></p>
Section 1.02 Definitions	<p><u>"Committee" shall mean the Privatization Bids and Awards Committee.</u></p> <p><u>"Deed of Assignment of all Rights, Liabilities and Obligations" shall mean the contract between the Winning Bidder and the Winning Bidder's Assignee wherein the Winning Bidder assigns, and the Winning Bidder's Assignee accepts, all rights, liabilities and obligations under this Agreement.</u></p> <p><u>"Highest-Ranking Bidder" shall mean the Bidder which the Committee declares as having submitted the Highest Financial Bid.</u></p> <p><u>"Operation and Maintenance Service Contracts" or "OMSC" shall mean the one (1)-year operation and maintenance contract between PSALM Corporation and its OMSC Contractor for the Malaya Thermal Power Plant.</u></p> <p><u>"Winning Bidder" shall mean the Highest-Ranking Bidder in the public bidding conducted by the Committee for the sale of the Purchased Assets to which, after having been subjected to the verification of the accuracy, authenticity and completeness of all the documents submitted in the Bid, Documentary Deliverables and other documents submitted or information furnished in the Bidding Process, the Committee serves the Notice of Award.</u></p> <p><u>"Winning Bidder's Assignee" shall mean the special purpose corporation wholly-owned by the Winning Bidder, which shall assume all the rights, liabilities and obligations of the Winning Bidder. Notwithstanding the Winning Bidder's assignment to the Winning Bidder's Assignee, both the Winning Bidder and the Winning Bidder's Assignee shall be solidarily liable for all obligations of the BUYER.</u></p>

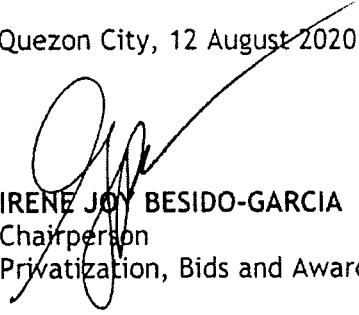
Section	Proposed Revision
Preamble	<p><u>WHEREAS, the Winning Bidder proposed to assign all of its rights, liabilities and obligations under this Agreement to the Winning Bidder's Assignee, and PSALM consented to the assignment;</u></p> <p><u>WHEREAS, by virtue of such assignment, the Assignee steps into the role of BUYER under this Agreement.</u></p> <p><Note: The two preceding whereas clauses shall be incorporated in the APA between Winning Bidder's Assignee (as BUYER) and PSALM (as SELLER) in case of an approved assignment></p>
Schedule R	Please see attached Annex A
Schedule Q	Please see attached Annex B

3. MISCELLANEOUS PROVISIONS

- a. Unless inconsistent with the provisions of this Supplemental Bid Bulletin No. 9, the provisions of the Bidding Procedures remain effective and binding to the Bidders.
- b. If any one or more of the provisions of the Bidding Procedures or Supplemental Bid Bulletin Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 (collectively, the "Procedural Documents") is held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of each and all Procedural Documents will not be affected thereby. To the extent permitted by Philippine Law, each Bidder waives any provision of law which renders any provision of any of the Procedural Documents invalid, illegal or unenforceable in any respect.

Please be guided accordingly.

Quezon City, 12 August 2020.


 IRENE JOY BESIDO-GARCIA
 Chairperson
 Privatization, Bids and Awards Committee



SCHEDULE R - Form of Deed of Assignment of All Rights, Liabilities and Obligations

**DEED OF ASSIGNMENT
OF ALL RIGHTS, LIABILITIES AND OBLIGATIONS**

This Deed of Assignment of All Rights, Liabilities and Obligations ("Deed"), made and entered into by and between:

[Name of Winning Bidder], a corporation organized and existing under and by virtue of the _____ with registered business address at _____ represented herein by its _____, _____ hereinafter referred to as "Winning Bidder"

-and-

[Name of Winning Bidder's Assignee], a corporation organized and existing under and by virtue of the _____ with registered business address at _____ represented herein by its _____, _____ hereinafter referred to as "Winning Bidder's Assignee"

WITNESSETH that -

WHEREAS, Winning Bidder is the winning bidder in the open and competitive bidding conducted by PSALM for the sale of the 650 MW Malaya Thermal Power Plant and its Underlying Land as evidenced by and indicated in the Asset Purchase Agreement (APA) submitted by Winning Bidder to PSALM on Bid Submission Deadline;

WHEREAS, Section 13.09 of said APA provides:

"13.09 Assignment, Successors, and No Third-Party Rights

The Winning Bidder may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of SELLER. Subject to the preceding sentence, this Agreement will apply to, and be binding in all respects upon and inure to the benefit of each of the Party's respective successors and permitted assigns. Nothing in this Agreement will be construed to give any person, other than the Parties, any legal or equitable right, remedy or claim with respect to this Agreement or any provision of this Agreement except such rights as shall inure to a successor or permitted assignee pursuant to this section.

In the event that the Winning Bidder wishes to assign its rights and obligations to an Assignee, the Winning Bidder must submit to PSALM within five (5) Business Days from receipt of the Notice of Award the following documents before PSALM can approve the assignment:

- a) Written notification that it intends to assign its rights, liabilities and obligations under this Agreement to the Winning Bidder's Assignee;
- b) Duly notarized Deed of Assignment of all Rights and Obligations under this Agreement, between the Winning Bidder and the Winning Bidder's Assignee;
- c) Guarantee issued by Winning Bidder in favor of the Winning Bidder's Assignee;
- d) Board Resolution issued by the Winning Bidder approving the assignment to the Winning Bidder's Assignee; and
- e) Board Resolution issued by the Winning Bidder's Assignee accepting the assignment and approving the assumption of all rights, liabilities and obligations of the Winning Bidder as BUYER under this Agreement.

In the event that PSALM approves the assignment, PSALM as the SELLER and the Winning Bidder's Assignee as the BUYER shall execute a new set of this Agreement"

WHEREAS, according to the APA, any assignments to be made by the Winning Bidder, to be valid, must comply with the provisions of the abovementioned Section 13.09 thereof, which mandates, among others, that:

- any proposed assignment and the corresponding Deed of Assignment of All Rights, Liabilities and Obligations shall be submitted to PSALM for its prior approval,
- in the event of PSALM's approval of the proposed assignment, the Winning Bidder's Assignee would be required to execute its own Asset Purchase Agreement with PSALM, separate and distinct from the APA between PSALM and the Winning Bidder,

WHEREAS, Winning Bidder's Assignee, its parent company, stockholders, subsidiaries, Affiliates, directors, officers, or any of their relatives within the fourth civil degree of consanguinity or affinity, legitimate or common law, has no conflict, dispute or unsettled issue, arising out of, or in connection with the DOE, PSALM, NPC or TRANSCO, that affects the privatization of NPC assets or TRANSCO, namely (i) unresolved issues, as determined by the inter-agency committee, from the renegotiation of contracts with independent power producers as mandated by Section 68 of the EPIRA; and (ii) unpaid accounts arising from contractual obligations with the DOE, PSALM, NPC or TRANSCO.

WHEREAS, fully aware of the abovementioned requirements of the APA, the Winning Bidder has offered to assign and/or transfer all of its rights, liabilities and obligations arising from or granted to the Winning Bidder by the APA to Winning Bidder's Assignee and Winning Bidder's Assignee hereby accepts said assignment in accordance with the terms herein set forth in this Deed which are consistent with the terms of the APA;

NOW, THEREFORE, in compliance with Section 13.09 of the APA and for and in consideration of the foregoing premises, this Deed is entered into under the following terms and conditions:

ARTICLE 1

DEFINITIONS AND USE OF TERMS

1. Construction

Any reference in this Deed to an "Article", "Section", "Paragraph", or "Schedule" shall refer to the corresponding Article, Section, Paragraph, or Schedule of this Deed, unless the context indicates otherwise. The headings of Articles, Sections, and Schedules are provided for convenience only and shall not affect the construction or interpretation of this Deed. The language for the purpose of administering this Deed shall be English. All words used in this Deed should be construed to be of such gender or number, as the circumstances require. Words referred to as "he" shall be deemed to include the male, female and neuter (e.g. his/hers/its) and vice-versa. The terms "include", "including" and "such as" indicate examples of a foregoing general statement and not a limitation on that general statement. Any reference to a law or statute refers to the law or statute, any amendments thereto, succeeding or supplemental legislation and all regulations promulgated under or implementing such law or statute, as in effect at the relevant time. Any reference to the Deed or other document as of a given date shall mean the Deed or other document as amended, supplemented and modified from time to time through such date. All references to times and dates shall refer to Philippine Standard Time. Should any of the dates fall on a holiday, the deadline shall be extended to the same time of the immediately succeeding Business Day. In computing a period, the first day shall be excluded and the last day included. Unless specified, all references to days shall refer to calendar days, a month shall be equal to thirty (30) calendar days and a year to three hundred sixty-five (365) calendar days. A fraction of a month shall be considered as one (1) month.

1.02 Definitions

For the purposes of this Deed, the following capitalized terms and variations thereof have the meanings specified in this Section.

"APA" shall mean or refer to the Asset Purchase Agreement submitted by Winning Bidder to PSALM on Bid Submission Deadline.

"Assignment Security" shall mean or refer to a form of security deposit posted by the Winning Bidder Assignee in an amount equivalent to the Bid Security in the form of: a) Cash, b) Cashier's or Manager's Check issued by a commercial or universal bank licensed to do business in the Philippines by the Bangko Sentral ng Pilipinas; or c) Irrevocable standby letter of credit (SBLC) issued by a Qualified Bank. This shall be submitted upon execution of the Deed of Assignment.

"Bid Security" shall mean or refer to the Bid Security as defined in the Bidding Procedures dated 31 January 2020, as amended, for the sale of the 650 MW Malaya Thermal Power Plant and its Underlying Land.

"Bid Submission Deadline" shall mean or refer to the deadline for the submission of bids as set forth in the Bidding Procedures dated 31 January 2020, as amended, for the sale of the 650 MW Malaya Thermal Power Plant and its Underlying Land.

"Deed" shall mean or refer to this "Deed of Assignment of All Rights, Liabilities and Obligations".

"EPIRA" shall mean Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001".

"its own APA" shall mean and refer to the Asset Purchase Agreement mandated to be executed between PSALM and The Winning Bidder's Assignee.

"Parties" shall mean the Winning Bidder and the Winning Bidder's Assignee, collectively.

"Party" shall mean the Winning Bidder or the Winning Bidder's Assignee, individually.

"Philippine Law" shall mean (i) the Constitution of the Republic of the Philippines and all Philippine laws, statutes, treaties, rules, codes, ordinances, regulations, certificates, decisions, orders, memoranda, circulars, decrees, resolutions, directives, rulings, interpretations, approvals, licenses and permits of any Governmental Body and (ii) judgments, decrees, injunctions, writs, orders or like actions of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction; as amended, supplemented, replaced, interpreted by a duly authorized Governmental Body, or otherwise modified from time to time.

"Philippine Pesos" or "PHP" shall mean the lawful currency for the time being of the Republic of the Philippines.

"Winning Bidder" shall mean and refer to the Highest-Ranking Bidder in the public bidding conducted by the Committee for the sale of the Purchased Assets to which, after having been subjected to the verification of the accuracy, authenticity and completeness of all the documents submitted in the Bid, Documentary Deliverables and other documents submitted or information furnished in the Bidding Process, the Committee serves the Notice of Award.

"Winning Bidder's Assignee" shall mean and refer to the special purpose corporation wholly-owned by the Winning Bidder, which shall assume all the rights, liabilities and obligations of the Winning Bidder. Notwithstanding the Winning Bidder's assignment to the Winning Bidder's Assignee, both the Winning Bidder and the Winning Bidder's Assignee shall be solidarily liable for all obligations of the BUYER.

ARTICLE 2

ASSIGNMENT PROPER

2.01 Acceptance by the Winning Bidder's Assignee, Solidary Liability and Submission of Assignment Security

The Winning Bidder's Assignee hereby accepts the abovementioned assignment and agrees to be bound by the terms and conditions of the APA.

Both the Winning Bidder and the Winning Bidder's Assignee shall be solidarily liable for all obligations of the BUYER under the APA.

The Winning Bidder shall secure consent from its issuing bank to cause the assignment of its Bid Security to the Winning Bidder's Assignee. Alternatively, the Winning Bidder's Assignee shall post an Assignment Security to be submitted to PSALM together with this Deed.

2.02 Approval by PSALM

PSALM, through the signature of its undersigned representative, _____, _____ hereby gives the necessary approval required under Section 13.09 of the APA.

2.03 Undertaking by the Winning Bidder's Assignee

The Winning Bidder's Assignee undertakes to enter into its own Asset Purchase Agreement with PSALM, separate and distinct from the APA submitted by the Winning Bidder to PSALM on Bid Submission Deadline.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF THE WINNING BIDDER

3.01 Representations and Warranties

The Winning Bidder represents and warrants to the Winning Bidder's Assignee on the date of execution of this Deed, except as provided herein, that:

- (a) it is a corporation duly organized and validly existing under and by virtue of Philippine Law;
- (b) it has full corporate power and authority to execute, deliver and perform this Deed;
- (c) the execution, delivery and performance of this Deed by the Winning Bidder has been duly authorized by all requisite corporate action on the part of the Winning Bidder and no further corporate action or proceeding on the part of the Winning Bidder is necessary to authorize the execution, delivery and performance by the Winning Bidder of this Deed;
- (d) upon execution, this Deed will constitute its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability may be limited by Philippine Law. Each Person executing and delivering this Deed on behalf of the Winning Bidder and any other document required to be executed and delivered by the Winning Bidder under this Deed has been duly authorized by it to execute and deliver such document; and
- (e) the execution, delivery and performance of this Deed by the Winning Bidder does not or will not: (i) violate or contravene any provision of Philippine Law or (ii) conflict with or violate any provisions of its charter.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF THE WINNING BIDDER'S ASSIGNEE

4.01 Representations and Warranties

The Winning Bidder's Assignee represents and warrants to the Winning Bidder that:

- (a) for corporations organized under Philippine Law, it is a corporation duly organized, validly existing and in good standing under Philippine Law and it shall preserve and maintain in full force and effect its existence as a corporation duly organized under Philippine Law and/or its qualifications to do business in the Republic of the Philippines;
- (b) it has full corporate power and authority to execute, deliver and perform this Deed and has obtained or effected all consents, approvals, authorizations, permits,

- licenses, Orders, filings with, or notifications to, any governmental body or any other Person, necessary for the valid execution, delivery and performance of this Deed and all such consents, approvals, authorizations, permits, licenses, Orders, filings and notifications remain in full force and effect;
- (c) the execution, delivery and performance of this Deed has been duly authorized by all requisite corporate action of the Winning Bidder's Assignee and no further corporate action or proceeding on its part is necessary to authorize the execution, delivery and performance of this Deed;
 - (d) upon execution, this Deed will constitute its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability may be limited by Philippine Law relating to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally or by principles governing the availability of equitable remedies. Each Person executing and delivering this Deed on behalf of the Winning Bidder's Assignee and any other document required to be executed and delivered by the Winning Bidder's Assignee has been duly authorized by the Winning Bidder's Assignee to execute and deliver such document;
 - (e) the execution, delivery and performance of this DEED by the Winning Bidder's Assignee does not or will not: (i) violate or contravene any provision of Philippine Law; (ii) conflict with or violate any provisions of its organizational document and (iii) conflict with or result in the breach of or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, cancellation or acceleration of, or result in the creation of any security interest on any of the assets or properties of the Winning Bidder's Assignee pursuant to any of the terms, conditions, or provisions of, any note, bond, mortgage, indenture, permit, license, franchise, lease, contract, deed or other instrument or obligation to which the Winning Bidder's Assignee is a party or by which any of its properties or assets are bound or affected; and (iv) should the Winning Bidder's Assignee be incorporated under laws of a jurisdiction other than the Philippines, it will not violate or contravene the laws of such jurisdiction;
 - (f) neither it nor its representatives have (i) offered, either directly or indirectly, any government officer, or official or employee of the Winning Bidder, including its representatives and advisors, any consideration or commission for this Deed and (ii) exerted or utilized any corrupt or unlawful influence to secure or solicit this Deed for any consideration or commission. If any commission is being paid to any person, the Winning Bidder's Assignee shall disclose the name of the person and the amount being paid;
 - (g) no arbitrator, court or other governmental body has issued any injunction, writ, preliminary or temporary restraining order or other Order of any nature against the Winning Bidder's Assignee in connection with the transactions contemplated in this Deed. ASSIGNEE is not a party to any legal, administrative, arbitral, investigative or other proceeding or controversy pending, or to the best of the Winning Bidder's Assignee's knowledge, threatened, that would adversely affect the Winning Bidder's Assignee's ability to perform its obligations under this Deed;
 - (h) the Winning Bidder's Assignee shall at all times fully comply with Philippine Law;
 - (i) neither it nor any of its assets or revenues, has any immunity from jurisdiction or execution;
 - (j) no bankruptcy, suspension of payments arising from or in connection with bankruptcy, winding-up, liquidation, receivership, corporate rehabilitation, reorganization due to financial difficulty, re-adjustment of debt, dissolution or similar proceedings of or relating to the Winning Bidder's Assignee has been commenced or is contemplated;
 - (k) none of its incorporators, nor past or present shareholders, directors, officers, employees, Representatives, consultants or agents have given, authorized or offered

any commission, bribe, pay-off, kickback, or has in any other manner given or offered any money or anything of value directly or indirectly to any past or present director, officer, employee or agent of any governmental body that violates any Philippine Law; and

- (l) there is no pending Proceeding by or against the Winning Bidder's Assignee that challenges or may have the effect of preventing, delaying, making illegal or otherwise interfering with the execution and performance of its obligations under this Deed giving effect to any of the contemplated transactions under this Deed and to the Winning Bidder's Assignee's knowledge, no such proceeding has been threatened.

ARTICLE 5

GENERAL PROVISIONS

5.01 Entire Agreement

This Deed embodies the entire agreement between the parties and supersedes all previous understandings and/or agreements of the parties relative thereto.

5.02 Effectivity

This Deed shall take effect upon its execution.

5.03 Governing Law

This Deed together with all incidents arising therefrom shall be governed and construed in accordance with the laws of the Republic of the Philippines.

5.04 Venue for Disputes

Should any disputes arise in connection with this Deed, the parties hereby agree to submit the same to the appropriate courts of Quezon City to the exclusion of all other courts.

5.05 Severability

If any part of this Deed shall for any reason be declared invalid and unenforceable, the remaining portion not affected thereby shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Deed to be duly executed at _____ on the date written below their names.

WINNING BIDDER

Represented by:

(Name)
(Position)

Date: _____, 2020

--and--

WINNING BIDDER'S ASSIGNEE

Represented by:

(Name)
(Position)

Date: _____, 2020

---and signifying its approval for this Deed---

PSALM

Represented by:

(Name)
(Position)

Date: _____, 2020

Signed in the Presence of:

ACKNOWLEDGMENT

Republic of the Philippines) _____) S.S.

Before me, this ____ day of _____, 20____, at _____, personally appeared the following:

Name	Identification Document	Date and Place of Issue
Winning Bidder		
Winning Bidder's signatory		
Winning Bidder's Assignee		
Winning Bidder's Assignee's signatory		
PSALM		
PSALM's signatory		

known to me to be the same persons who executed the foregoing Deed of Assignment of All Rights, Liabilities and Obligations, and he acknowledged to me that the same is their free and voluntary acts and deeds, and that of the corporations they represent.

The foregoing Deed of Assignment of All Rights, Liabilities and Obligations consists of _____ (___) pages including this page on which this Acknowledgment is written, exclusive of schedules and annexes, signed by the parties and their instrumental witnesses on the signature page, and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto set my hand, the day, year and place above written.

Doc. No. ;
Page No. ;
Book No. ;
Series of 2020.

Revised Schedule Q - Form of Deed of Accession for the Operation and Maintenance Service Contract

To:

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION ("PSALM")

24TH Floor Vertis North Corporate Center 1

Astra corner Lux Drives, North Avenue, 1105 Quezon City

[Name of OMSC Contractor]

[Address of OMSC Contractor]

AND THEIR RESPECTIVE SUCCESSORS-IN-INTEREST

We refer to the Operation and Maintenance Service Contract (the "OMSC") dated ____ executed between PSALM and [OMSC Contractor], including any contract extension thereof.

In accordance with this Deed, PSALM (the "SELLER") shall ensure that its assignee and successor(s)-in-interest, including the BUYER, shall be bound by, and comply with, the terms and conditions of this Deed.

NOW THIS DEED WITNESSETH as follows:

1. Capitalized terms used but not otherwise defined herein shall have the meaning given to such terms in the Asset Purchase Agreement for the Sale of the Malaya Thermal Power Plant and its Underlying Land.
2. In consideration of the assignment by the SELLER of this Deed in favor of [name of BUYER] (the "BUYER"), the BUYER hereby unconditionally and irrevocably (a) agrees and undertakes to abide by and comply with the terms of the OMSC in all respects as they apply to the SELLER and its obligations therein, as if the BUYER was named as the original party to the OMSC, in place of the SELLER in respect of the obligations undertaken thereunder, and (b) undertakes to not at any time take any action which is inconsistent with the terms of the OMSC.
3. This DEED shall be governed by and construed in accordance with the laws of the Republic of the Philippines.

[name of BUYER]

By:

[Name of Authorized Representative]

[Title]

ACKNOWLEDGEMENT