

FOLLOW-UP QUERIES

QUERIES	CLARIFICATIONS
<p>A. Electronic Filing of GIS and AFS</p> <p>SEC Filing Section 3.1.2 of the IPB requires that the latest General Information Sheet (“GIS”) shall be stamped-received by the Securities and Exchange Commission (“SEC”). On 17 March 2020, the SEC issued SEC Memorandum No. 10 Series of 2020 or the "Guidelines on Submission by Electronic Mail of GIS, AFS, Forms and Documents Required under Existing Laws, Rules and Regulations, and Recognition of Electronic Signature”.In the said memorandum, the SEC allows the electronic filing of the GIS, Audited Financial Statement (“AFS”) and all other general and special forms and letters during the current community quarantine restriction and state of public health emergency. Upon electronic filing, there is a system generated e-mail response that acknowledges receipt of the filed document.</p> <p>BIR Filing Similarly, Section 3.1.4 of the IPB provides that AFS must be stamped-received by the Bureau of Internal Revenue (“BIR”) or the SEC. On 20 May 2020, the BIR issued Revenue Memorandum Circular No. 49-2020providing additional options in the acceptance and processing of income tax returns and its required attachments. The circular provides that any taxpayer may submit online thru the BIR eAFS System. Once filed, the eAFS System will acknowledge successful submission by issuing a system generated Transaction Reference Number and by sending an email to the system user. This Reference Number shall serve as the proof of submission by the taxpayer, in lieu of the manual “Received” stamping. In view of the above, may we request that affected sections of the IPB be modified to the effect that, in lieu of the ‘stamped-received’ copy of the SEC or BIR, as the case may be, the TPBAC allow the submission of:</p> <ol style="list-style-type: none"> 1.The electronic system generated e-mail response of the SEC upon electronic filing of the bidder of the GIS; and 2.The electronic system generated e-mail response of the BIR upon electronic filing of the AFS. 	<p>Accepted. Provided, you will have to submit the electronic system generated email response of the BIR together with the AFS and the GIS.</p> <p>In addition to that, please submit also the BIR stamped-received email as to the transaction reference number as mentioned in the RMC49-2020.</p>
<p>B. Certification by Assistant Corporate Secretary</p> <p>We would like to make further clarification and request on allowing the Assistant Corporate Secretary to certify submitted documents that requires certification as true copy of the originals. According to the clarification provided by the TPBAC as indicated in the matrix of queries sent by AC Energy Corporation (ACEN), such certification by the Assistant Corporate Secretary in lieu of the Corporate Secretary will be allowed only if such is also mentioned in the submitted By-Laws.</p>	<p>This is accepted provided there is a Board Resolution appointing the person as the Assistant Corporate Secretary.</p>

<p>Given the foreseeable delay in possible revising the By-Laws to accommodate this requirement brought about by the current pandemic, and the challenges in securing the approvals and signatures of our Corporate Secretary, we are humbly requesting the TPBAC that the bidders be given enough leeway such that the Assistant Corporate Secretary be allowed to authenticate bidding documents which require certification.</p> <p>This is also in accordance with other previous CSPs conducted by other distribution utilities allowing the Assistant Corporate Secretary to certify documents.</p>	
<p>C. Business Day as indicated in the Bid Security Template</p> <p>Since most of the bidders, if not all, are located in the Metro Manila area, we suggest that the “Business Day” be redefined as follows:</p> <p><i>As used herein, the term “Business Day” means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions in La Union, Philippines and Metro Manila are authorized or obligated by law or executive order to remain closed.</i></p>	<p>Item No. 4 of ANNEX 9 is amended to read as follows:</p> <p>“We hereby agree to honor the drawing hereunder made in compliance with this Letter Of Credit notwithstanding any objection that the Bidder might raise against LUECO’s entitlement to payment, by transferring in immediately available funds to the Designated Account the amount specified in a demand for payment at the opening of business no later than the second Business Day succeeding the date of such demand. As used herein, the term “Business Day” means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions in La Union, Philippines and Metro Manila are authorized or obligated by law or executive order to remain closed.”</p>
<p>In addition, we would like to seek clarification that in relation to item A.ii of Bid Bulletin #6. Since the Deadline of Bid Submission was extended to April 30, may we be clarified that the opportunity to add to/change the Nominated Plant is also extended at a later date as well. Currently, the deadline was set to April 5 which is 7 days before the original Bid Submission Date of April 12, 2021.</p>	<p>The deadline is extended up to April 19, 2021.</p>
<p>Thank you for sending the supplemental bid documents. Indeed, they came to aid our understanding of LUECO’s rationale behind the terms and conditions of the CSP.</p> <p>In line with our review, we would like to clarify Section. 3.2.b of the ITPB (Technical Proposal):</p> <p>“The Nominated Power Plant or Portfolio of plants must be covered by a Certificate of Compliance (COC) from the ERC.”</p> <p>Can the Bidder submit just one COC of one of its listed plants in its portfolio? This is in view of the fact that other plants listed are currently in testing and commissioning phase and is expected to be issued with a COC post the bid submission date. Or rather, does LUECO require an individual COC for each plant under its portfolio of plants?</p>	<p>We stick to our requirement. We have offered a solution to your problem which is to change or add to your Nominated Plant, the deadline of which is up to April 19, 2021.</p> <p>Yes, one COC for each Nominated Plant.</p>
<p>In addition, we would like to once again request for LUECO’s consideration to accept an Undertaking from a Bidder to be accepted in lieu of the COC requirements. Such Undertaking includes the latest development of the greenfield nominated plant, together</p>	<p>We cannot accept your undertaking because at stake is the 100% power supply from the sole winning Bidder.</p>

<p>with the latest letter to the ERC for the technical inspection as proofs that the Nominated plant is already on its final stage of obtaining its COC. Further, we would also like to request for the same to be accepted as part of the supporting documents in lieu of the Annex 7 attachment 4 (Details of interconnection, operation and maintenance).</p> <p>This would enable new power plants that are in much capable to offer the least cost of power to join the bidding and will support in providing additional supply to the grid.</p>	
<p>Thank you for responding to our queries. As a follow up, please confirm if we can do the ff. processes:</p> <p>1st – To comply with the COC requirement, nominate an affiliate plant that has COC 2nd – Granting that the EPPA is awarded to us and the COC of the new plant has been issued, assign the Award and EPPA to the new plant</p>	<p>Yes. Yes, provided:</p> <ol style="list-style-type: none"> 1) The new Nominated Plant is owned by the same company to cover the remaining cooperation period, and 2) Subject to evaluation and approval of the new plant by LUECO.
<p>May we inquire the following with regard to the issuance of Bid Security for the LUECO CSP:</p> <p>a. ANNEX 9 – Item 3</p> <p>“3. The Issuer shall be deemed to have honored a drawing hereunder if the Issuer deposits the amount of such drawing in any of the Bank Accounts (the “Designated Account”) designated by LUECO in accordance with Annex 11. Any such drawing made hereunder shall be free and clear of all interest and charges and any sums due to the Issuer.”</p> <p>- May we be clarified the meaning of Bank Account or “Designated Account” in accordance with Annex 11 as mentioned under item no. 2 of Annex 9. A bank account could mean “bank account numbers” in banking terms. However, Annex 11 is just a list of “Allowed Banks” to issue to the SBLC and not a list of bank accounts.</p> <p>May we request also for the list of Bank Account (numbers).</p> <p>b. ANNEX 9 – Item 4</p>	<p>We will provide you in private the Bank Account Number of your chosen Bank among the listed Banks in Annex 11.</p>

<p>“4. We hereby agree to honor the drawing hereunder made in compliance with this Letter Of Credit notwithstanding any objection that the Bidder might raise against LUECO’s entitlement to payment, by transferring in immediately available funds to the Designated Account the amount specified in a demand for payment at the opening of business no later than the second Business Day succeeding the date of such demand. As used herein, the term “Business Day” means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions in La Union, Philippines are authorized or obligated by law or executive order to remain closed.”</p> <p>- Is it possible to change the number of days to five (5) business days succeeding the date of demand.</p> <p>c. Annex 9 – Item 13</p> <p>“13. To the extent that the provisions of this Letter of Credit are not governed by ISP 98, this Letter of Credit shall be governed by the laws of the Republic of the Philippines and construed in accordance with said laws, without regard to principles of contents of law.”</p> <p>- According to the Legal team of one of our chosen banks, “principle of contents of law” should instead be “conflicts of law principles”, since the “conflicts of law principles” refer to the possible application of foreign law in lieu of Philippine law. May we know if this is correct.</p>	<p>The clearing day has been reduced to one (1) day, hence no reason to extend to five (5) business days.</p> <p>Annex 9 Item 13 is hereby amended.</p> <p>13. To the extent that the provisions of this Letter of Credit are not governed by ISP 98, this Letter of Credit shall be governed by the laws of the Republic of the Philippines and construed in accordance with said laws, without regard to conflicts of law principles. of contents of law.</p>
<p>Move "Annex 2" label to the right (template is at center)</p>	<p>This is noted.</p>
<p>Republic of the Philippines) Pasig City, Metro Manila) S.S.</p> <p>Add "Pasig City, Metro Manila" in venue</p>	<p>Noted.</p>
<p>2. I am the duly elected Corporate Secretary of (Bidder) (the “Bidder”), a corporation organized and existing under and by virtue of the laws of the Republic of the Philippines</p> <p>Capitalization of <u>C</u>orporate <u>S</u>ecretary (in LUECO template: all small letters)</p>	<p>Noted.</p>

At a (regular/special) meeting of the Board of Directors/partners of the Bidder. . .	Noted.
Capitalization of Board of Directors (in LUECO template: all small letters) Can the place be “via Zoom conferencing”	Noted. As to the meeting via Zoom platform, this is acceptable now, and we do not amend the document because it will depend on how each will conduct their meetings.
<p>Resolution No. 11-b, Series of 2021</p> <p>“RESOLVED, AS IT IS HEREBY RESOLVED, that THE (Bidder) (the “Company”) be and is hereby, authorized to participate in the Bidding of La Union Electric Company, Inc. (“LUECO”) to make available Contract Capacity and supply associated energy to LUECO (“Project”);</p> <p>RESOLVED FURTHER, that in the event the Company is declared as the winning bidder, the Company commits to fulfill all the Post-Qualification compliances, if deemed necessary by the TPBAC, including the execution of the Electric Power Purchase Agreement with the LUECO;</p> <p>RESOLVED FURTHER, that (representatives), signing singly, are hereby appointed as the authorized representatives of the Company during the Bidding, authorized to execute, sign, submit and receive documents for, and otherwise act in the name of, the Company;</p> <p>RESOLVED FINALLY, that any and all acts done or performed by any of the abovementioned authorized representatives under and by virtue of this resolution be, as they are hereby, confirmed and ratified.</p> <p>Can we add resolution number?</p> <p>Can we adjust the margin of the resolution to be more narrow than the item numbers? Please see the attached file for reference</p> <p>Can we propose the following revisions on the language?</p> <p>IN WITNESS WHEREOF, I have hereunto signed this document this _____ at _____.</p>	<p>Yes.</p> <p>This is noted.</p> <p>Yes. This is accepted.</p>

<p style="text-align: right;">_____ (Name) Corporate Secretary</p> <p>SUBSCRIBED AND SWORN to before me this _____ at _____ by _____ whose identity I have confirmed through her _____ issued _____ in _____ that she is the same person who personally signed before me the foregoing document and acknowledged that she executed the same.</p> <p>Can we propose to apply the revisions on the sworn statement?</p>	<p>Yes.</p>
<p>May we be clarified on the requirement needed on SBB 07 "Checklist" - Annex 7 Attachment 1.</p> <p>What document will suffice the requirement Annex 7 Attachment 1 "Identification or list of characteristics of the nominated power plant or portfolio of plants."? Please enumerate required documents if so. Is this a free-form of document?</p> <p>or should we interpret it this way..?</p> <p>Technical Proposal of Nominated Power Plant "Annex 7" is also the same requirement for "Identification of list of characteristics of the nominated power plant or portfolio of plants"? Should we re-attach Annex 7 document to suffice Annex 7 attachment 1 requirement?</p>	<p>These are evidences of compliance to the requirements as stated in the TOR.</p>
<p>We have informed our issuing bank on the SBB 11 provision on bid security, and they have accepted the new terms from SBB11.</p> <p>They are requesting a minor modification on the updated Bid Security template, item 6. (in red font)</p> <p>"6. This Letter of Credit shall expire, unless otherwise extended in accordance with the provisions hereof, on the earliest of (i) 5 p.m. at the place of presentation [insert date that is sixty (60) days after Bid Submission Date] or [on August 26, 2021, in case of a Winning Bidder], or (ii) the date on which we have honored a drawing in an amount equal to the Stated Amount, or (iii) the date when we receive a written notice from LUECO that a replacement letter of credit, which is in full force and effect, has been substituted for this Letter of Credit, or (iv) the date when we receive a written notice from LUECO that it is canceling this Letter of Credit (the "Expiration Date"). "</p> <p>Please see attached document checked by our issuing bank, you may refer to the comment from John Christian L. Yu on their final request, for your reference.</p>	<p>This is well taken.</p>

<p>Query 1: May we inquire on when can our chosen bank expect the Bank Account details? Or will LUECO just email TPEC the bank account or will notify TPEC thru a letter?</p>	<p>The bank account details will be reflected when we execute Annex A- Drawing Certificate (Please refer to ANNEX 9 as amended).</p>
<p>Query 2: For clarity, the statement “The clearing day has been reduced to one (1) day” refers to the check clearing days and that the required number of days to transfer payment remain to two (2) days.</p>	<p>In our experience, when we make a transfer of payment before the bank cut off time, the recipient will receive the transfer on the same day.</p>
<p>Regarding the Audited Financial Statements (AFS) to be submitted, may we clarify if the CFO has to sign all pages of all three (3) years AFS including the latest quarterly FS? Or the front pages will suffice for this case, then the authorized representative can sign the remainder of the pages?</p>	<p>Please refer to herein Section 3.3 (c) and Section 3.4.1 (e) of the IPB as amended.</p> <p>Section 3.3 (c)</p> <p><i>(c) Proposed Price for each Billing Year throughout the Cooperation Period beginning on the Commencement Date, as reflected in the Financial Evaluation Workbook. A soft copy of the Financial Evaluation Workbook (this includes worksheets on LCOE Result and Annual Esc; Base Rates Table; in the forms shown below) shall be submitted together with a print out of the said duly accomplished worksheet/s, signed in all pages of the original set by the Bidder’s authorized representative and submitted as part of Envelope 3; and</i></p> <p>Section 3.4.1 letter (e)</p> <p><i>(e) Electronic copies of ALL documents submitted in the Bid shall be in PDF format via email. There shall be one password per envelope. Hence, there shall be three different passwords for the three envelopes.</i></p> <p>There shall be only one email bid submission per envelope. Should there be more than one email submission in case of errors, only the latest submission shall be considered within the deadline set for the purpose. Envelopes 1 and 2 shall be sent via Google drive due to the volume of the documents and should be password-protected; while envelope 3 shall be sent via email and password-protected. In addition to the PDF format of the LCOE worksheet, its Excel format shall also be</p>

	<p>provided. In case of conflict in the LCOE worksheet, the PDF format shall prevail.</p> <p>Participating Bidders are required to submit the soft copy of their documents and must be password-protected on April 30, 2021, on or before 9 o'clock in the morning and its hard copies on or before 12 noon of the same date at the address to be posted through a Bid Bulletin on the DOE CSP Portal and LUECO website.</p> <p>This being the case, the contents on the soft copy (in PDF file) shall prevail over those contained in the hard copy in case of conflict. The hard copy will be used to facilitate easy evaluation and assessment. There shall be six (6) sets of hard copies, (one set of signed original copy and five photo copies of the signed original copy), of Document Submissions to be sent to the TPBAC Secretariat.</p>
<p>This is to acknowledge receipt of email below and its attached documents. Given the release again of the IPB in the attached document, we would like to clarify the following:</p> <p>In Section 3.1 of the original IPB , BIR Certificate of Registration was not included in the submission of Envelope 1. This was revised in Bid Bulletin No. 7 which is now included in the submission of Envelope 1. In the latest IPB provided, this was again removed in Sec 3.1.</p> <p>In Section 3.1 of the original IPB , Annex 4 was included in the submission of Envelope 1. This was revised in Bid Bulletin No. 7 which is now included in the submission of Envelope 2. In the latest IPB provided, this was again returned in Envelope 1. May we request a clarification if this will still be submitted as part of Envelope No.1?</p> <p>Given the above, may we clarify if the latest IPB released will be the basis of the submission or will the checklist provided in Bid Bulletin No. 7 be followed?</p>	<p>Amendments of IPB will be done to conform with Bid Bulletin No. 7 pertaining to BIR Certificate Registration and ANNEX 4.</p> <p>ANNEX 4 regarding Certification on Uncontracted Capacity of Nominated Plant refers to technical matters and should be in Envelope #2.</p>
<p>IPB 3.4.1 d</p>	

<p>(d) All documents shall be properly organized and sequenced in the same order these appear in Section 3.1, 3.2 and 3.3. The first page of the individual documents shall be properly labeled with a document tab or separator for easy distinction of individual documents.</p> <p>And Bid Bulletin No. 7 Checklist</p> <p>There are discrepancies in the order of documents between the mentioned. (ex. Annex 4 is in Envelope 1 in IPB 3.4.1 (d) while in Envelope 2 in Bid Bulletin No. 7). Which between the two would we follow?</p>	<p>Amendments of IPB will be done to conform with Bid Bulletin No. 7 pertaining to BIR Certificate Registration and ANNEX 4.</p> <p>ANNEX 4 regarding Certification on Uncontracted Capacity of Nominated Plant refers to technical matters and should be in Envelope #2.</p>
<p>ANNEX 6 Item 1</p> <p>1. The (Bidder) has an Unrestricted Net Worth equivalent to [●] based on the submitted consolidated financial statements, certified true copies of which are attached to this certificate.</p> <p>a) Can we know what constitutes the “Unrestricted Net Worth”?</p> <p>If the Company has restricted Retained Earnings (RE), do we exclude this in the computation of unrestricted net worth?</p>	<p>Please refer to your accountant or auditor. The term “Unrestricted Net Worth” has a technical meaning known to accountants.</p> <p>Net Worth is equal to assets less liabilities. Retained earnings is composed of Restricted and Unrestricted accounts.</p>
<p>Given that GNPD will be participating the CSP while nominating a power plant of a different company, we would like to confirm if all the bidding requirements, except for the technical requirements which will be from our nominated plant, shall pertain to GNPD.</p>	<p>Please take note of our reply to your previous query that TPBAC is allowing you to nominate another plant provided:</p> <ol style="list-style-type: none"> 1) The new Nominated Plant is owned by the same company (Bidder) to cover the remaining cooperation period, and 2) Subject to evaluation and approval of the new plant by LUECO. <p>But if the GNPD is the parent company of the owner of the new nominated power plant, then the documentary bidding requirements shall pertain to GNPD.</p>

<p>We would like to clarify if the authorized representative will also be allowed to certify the document requirements from the gov't. agencies given the logistical constraints due to the MECQ and number of copies required by LUECO.</p>	<p>Yes, provided that there is a Board Resolution authorizing the representatives to sign for and in behalf of the person who is required to sign.</p>
<p>For the updated EPPA, we would like to suggest to delete the line "whichever is lower" under Article 4.2 to align with the Article 4.4 Allowed Downtime which allows the Seller to have planned and unplanned outage provided that the Buyer shall pay at the prevailing Electricity Fee.</p>	<p>This is embodied in the TOR and the latter is already approved by the DOE.</p>
<p>May we confirm if this is still valid?</p> <p style="text-align: center;">12) The hard copies shall be sent on or before 12 noon of the same date at the front desk of Edsa Shangri-la Hotel, Mandaluyong City.</p>	<p>Yes, as stated in Bid Bulletin No. 9.</p>
<p>Please see Bank's comment below. Please confirm if amenable, the soonest. BDO requests the following revisions to prescribed template for the bid security as per Bid Bulletin No. 13:</p> <p>On paragraph 1: "In the case of the Winning Bidder, this Bid Security shall be kept valid until Commencement Date as defined in the Electric Power Purchase Agreement."</p> <p>On item 6: "...or [on August 26, 2021, in case of a Winning Bidder]"</p> <p>Above items conflict with the expiry of the SBLC, which is June 29, 2021. Should SCPC be the winning bidder, SCPC needs to apply for an amendment of the SBLC prior to June 29, 2021 to extend expiry up to August 26, 2021.</p>	<p>The expiry date of the SBLC of the losing Bidders is different from the expiry date of the SBLC of the Winning Bidder.</p> <p>Your observation is correct, that should SCPC be the winning bidder, SCPC needs to apply for an amendment of the SBLC prior to June 29, 2021 to extend expiry up to August 26, 2021.</p>
<p>Would like to clarify the requirements "Identification or list of characteristics of the nominated power plant or portfolio of plants" (Annex 7 Attachment 1), this redirects to 4 TOR eligibility requirements of power supplier:</p> <ol style="list-style-type: none"> 1. COC 2. Experience in supplying DU.....xxx. 3. Sufficient available capacity to supply LUECO's requirements from the commencement date, to be evidenced by a notarized certification in the form and substance provided in the IPB ANNEX 7. 4. Proof of direct WESM membership <p>May we know what specific document will satisfy requirement #3 above "Sufficient available capacity to supply LUECO"? or requirement #3 is a free form (bidder's form as long as it will satisfy requirement)?</p>	<p>The specific documents are ANNEX 4 and ANNEX 7. ANNEX 7 Technical Proposal of Nominated Plant covers different Capacity issues and technical performance while ANNEX 4 covers specifically the Uncontracted Capacity.</p>

<p>EPPA Article 8.2 Force Majeure</p> <p>Recommend to include as "force majeure":</p> <p>(j) The lack/insufficiency of water or causes which prevent SELLER from operating the plants/facilities due to causes consequent of: (i) force majeure events mentioned in this Section or (ii) decisions regarding water usage by Governmental Authority.</p>	<p>What you mentioned is already included in letter (c) under natural disaster and letter (d) regarding Governmental Authority.</p>
<p>EPPA Article 13.1.2.3 BUYER CONDITIONS PRECEDENT</p> <p>If the ERC Approval requires any portion of the sum that has been paid by BUYER to SELLER to be adjusted, SELLER shall make the necessary adjustments in accordance with the directive of the ERC. In the event of any disallowance in the Electricity Fee, the same shall be for the account of SELLER. For clarity, any modification made by the ERC to the rates, terms and conditions of this Agreement shall not be grounds for SELLER's right to terminate this Agreement.</p> <p>Recommend to revise:</p> <p>If the ERC Approval requires any portion of the sum that has been paid by BUYER to SELLER to be adjusted, SELLER shall make the necessary adjustments in accordance with the directive of the ERC. In the event of any disallowance in the Electricity Fee, the same shall be for the account of SELLER.</p> <p>In the event that the ERC's Approval this Agreement requires an amendment of any contract provision, including provisions on Fees, the Chief Executive Officer or authorized representative of both Parties shall meet and decide not later than sixty (60) days from the date of such ERC approval whether or not the Agreement will (a) become effective as amended by such ERC order, (b) be terminated after a period of six (6) months or a longer duration as the Parties may agree to give the BUYER time to source for another supplier, or (c) be immediately terminated. During the period specified in item (b), the terms and conditions under this Agreement shall apply. If the Parties choose to immediately terminate the Agreement, the Agreement shall be deemed terminated on the date that the ERC final order became effective.</p>	<p>Whatever decision of the ERC has to bind both parties. It's beyond our control. It is very clear under Article 13.1.2.3 of EPPA that any modification made by the ERC as to the rates and terms and conditions of the agreement shall NOT be a ground for SELLER's right to terminate said agreement. Your recommendation defeats the purpose of the Performance Security requirement.</p>
<p>EPPA-Article II 2.2 Cooperation Period and 2.3</p> <p>2.2 Cooperation Period of Agreement</p> <p>2.2.1 Subject to Section 2.3, this Agreement shall become effective on the Effective Date.</p> <p>2.2.1.1 The term of this Agreement (the "Cooperation Period") shall commence on the Commencement Date and shall expire on February 25, 2032, unless terminated earlier in accordance with the terms of this Agreement.</p> <p>Conditions Precedent, Effective Date, and Commencement Date 2.3.1 Effective Date</p>	

2.3.1.1 The Effective Date shall be the date the conditions precedent in Sections 13.1.1 and 13.2.1 have been satisfied or waived by the relevant Party (the "Effective Date").

2.3.2 Conditions Precedent

2.3.2.1 Subject to Sections 13.1.1 and 13.2.1, the Parties' rights and obligations shall commence as of the Effective Date, upon the satisfaction of the conditions set forth under ARTICLE 13:

The representations and warranties of SELLER and BUYER contained herein shall be true and correct in all material respects on and as of date of the execution of this Agreement, the Effective Date, and the Commencement Date.

For the avoidance of doubt, notwithstanding the preceding sentences of this Section 2.3.2.1, the provisions of Section 13.1.2.1, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 14, ARTICLE 17, and ARTICLE 20 shall be effective from the date of execution of this Agreement.

2.3.3 Commencement Date

2.3.3.1 The "Commencement Date" shall occur upon the satisfaction of the conditions set out in Section 2.3.2.

Clarify "effective date" and "commencement date".

We suggest that the 'effective date' shall be upon the parties' execution of the EPPA, while 'commencement date' shall begin upon compliance of preconditions (Sections 13.1.1 and 13.2.1). Commencement date shall control the start of the cooperation period.

Please see suggested changes:

2.2 Cooperation Period of Agreement

The Cooperation Period shall commence on the Commencement Date and shall expire on February 25, 2032, unless terminated earlier or extended in accordance with the terms of this Agreement.

2.3.1 Effective Date

2.3.1.1 The Effective Date shall be the date of execution of this Agreement.

2.3.2 Commencement Date

2.3.2.1 The "Commencement Date" shall occur upon the satisfaction of the conditions set out in Sections 13.1.1 and 13.2.1.

2.3.3 Conditions Precedent

2.3.3.1 Subject to Sections 13.1.1 and 13.2.1, the Parties' rights and obligations under Sections 2.4 and 2.5 shall commence as of the Commencement Date.

The Effective Date refers to the date upon compliance of pre-conditions under Sections 13.1.1 and 13.2.1 which includes the approval from the ERC.

Commencement Date refers to the date when the obligation of the SELLER starts which is to supply electricity to the BUYER.

Commencement Date is clearly defined in Section 2.3.3 of the EPPA.

We stick to our own definitions.

<p>The representations and warranties of SELLER and BUYER contained herein shall be true and correct in all material respects on and as of the Effective Date and the Commencement Date.</p> <p>For the avoidance of doubt Section 13.1.2.1, ARTICLE 10, ARTICLE 11, ARTICLE 12, ARTICLE 14, ARTICLE 17, and ARTICLE 20 shall be effective from the Execution Date."</p>	
<p>EPPA Article 14.1 SELLER Events of Default</p> <p>a) SELLER fails to perform any material obligation under this Agreement, including but not limited to failure to deliver supply in accordance to Section 4.2 and in the making of any payment which is due, which failure has not been remedied within thirty (30) Days after receipt from BUYER of a written notice of SELLER Event Default.</p> <p>"Recommend to revise:</p> <p>a) SELLER fails to perform any material obligation under this Agreement (unless excused by Force Majeure) including but not limited to failure to deliver supply in accordance to Section 4.2 and in the making of any payment which is due, which failure has not been remedied within thirty (30) Days after receipt from BUYER of a written notice of SELLER Event Default."</p>	<p>No need to insert the phrase "unless excused by Force Majeure" since there is a specific Article on Force Majeure which exempts both parties from compliance of their respective obligations.</p>
<p>EPPA 14.3 Liquidated Damages</p> <p>14.3.1 Upon the occurrence of a SELLER Event of Default that affects the ability of SELLER to supply BUYER with electricity in accordance with this Agreement and results in the early termination of this Agreement (and without prejudice to any other provisions of this Agreement prior to such termination), BUYER shall be entitled to Liquidated Damages equivalent to Performance Security in lieu of all other damages to which it may be entitled in respect of such Event of Default. BUYER shall draw upon the Performance Security, and SELLER shall pay BUYER any shortfall amount of such liquidated damages within fifteen (15) Days after written demand for payment.</p> <p>"Clarify the amount of liquidated damages due to buyer in case of Seller's default.</p> <p>Recommend to revise:</p> <p>14.3.1 Upon the occurrence of a SELLER Event of Default that affects the ability of SELLER to supply BUYER with electricity in accordance with this Agreement and results in the early termination of this Agreement (and without prejudice to any other provisions of this Agreement prior to such termination), BUYER shall be entitled to Liquidated Damages equivalent to the loss, which shall be deducted from the Performance Security in lieu of all other damages to which it may be entitled in respect of such Event of Default. BUYER shall draw upon the Performance Security, and SELLER shall pay BUYER any shortfall amount of such liquidated damages within fifteen (15) Days after written demand for payment."</p>	<p>Please refer to Article 14.3 Liquidated Damages</p> <p>14.3.1 Upon the occurrence of a SELLER Event of Default that affects the ability of SELLER to supply BUYER with electricity in accordance with this Agreement and results in the early termination of this Agreement (and without prejudice to any other provisions of this Agreement prior to such termination), BUYER shall be entitled to Liquidated Damages equivalent to</p>

	<p>Performance Security in lieu of all other damages to which it may be entitled in respect of such Event of Default. BUYER shall draw upon the Performance Security, and SELLER shall pay BUYER any shortfall amount of such liquidated damages within fifteen (15) Days after written demand for payment.</p> <p>Performance Security is defined under Article 3.1</p> <p>3.1 SELLER shall, within fifteen (15) Days from receipt of ERC Approval, deliver to BUYER security ("Performance Security") in an amount equivalent to THREE HUNDRED FIFTY MILLION PESOS (PHP 350,000,000.00), in the form of an irrevocable stand-by letter of credit or bank guarantee, and at the time of issuance thereof, be issued by an Acceptable Bank.</p>
<p>EPPA Article 5.2.4 Payment Procedure</p> <p>If BUYER disputes all or any portion of an Invoice for a reason other than a manifest error in, or the apparent invalidity or incorrect form or substance of, such Final Invoice, BUYER shall nonetheless pay the full amount of such Invoice (subject to SCHEDULE 5). Any payment by BUYER under this Section 5.2.4 is without prejudice to BUYER's right at a later date within one (1) year following such payment to dispute, protest or question any amount so paid.</p> <p>Clarify other circumstances contemplated besides those listed (e.g. manifest error, apparent invalidity, incorrect form/substance), that would require a dispute to be filed. If none, suggest to delete this section.</p>	<p>If we can predict reasons other than those enumerated, we should have enumerated them. Anyway, the BUYER shall nonetheless pay the full amount without prejudice to BUYER's right to protest.</p>
<p>EPPA Article 6.1.3 Responsibility for Taxes, Fees, and Costs</p> <p>Each Party shall be liable for their respective income taxes. For the avoidance of doubt, any increase in income tax imposed on SELLER shall be for SELLER's account</p> <p>"Recommend to add the following:</p>	

<p>Each Party shall be liable for their respective income taxes, business tax, property tax and other similar direct taxes. For the avoidance of doubt, any increase in income tax imposed on SELLER shall be for SELLER's account"</p>	<p>We are not including business tax, property tax and other similar direct taxes are pass-through charges while income tax is not.</p>
<p>EPPA Article 8.2(c) Force Majeure</p> <p>"(c) explosions, fires, earthquakes, lightning, typhoon, tsunami, flood, cyclone, volcanic eruptions, landslide or other natural disasters, acts of God, epidemic, pandemic, quarantine or plague;</p> <p>(...)</p> <p>For the avoidance of doubt, the Power Supplier shall not be entitled to claim any of its act or omission as Force Majeure."</p> <p>"Clarify ""quarantine"". Suggest to include ""state of calamity"" in the enumeration.</p> <p>Recommend to revise:</p> <p>For the avoidance of doubt, the Power Supplier shall not be entitled to claim intentional acts or omissions within its control as Force Majeure.</p> <p>"</p>	<p>State of Calamity is just a consequence or a resulting effect of the natural disasters.</p> <p>Quarantine is interpreted to mean any government action as a result of a pandemic or epidemic.</p>
<p>EPPA 14.7 Termination Upon Mutual Agreement</p> <p>14.7 Termination Upon Mutual Agreement. This Agreement may be terminated at any time upon the mutual agreement of both Parties.</p> <p>"Recommend to revise:</p> <p>This Agreement may be terminated at any time upon the mutual written agreement of both Parties"</p>	<p>Considering that the EPPA is a formal contract, it goes without saying that any mutual agreement by the parties should be in writing.</p>
<p>EPPA-Article I Definitions, 1.1</p> <p>"Define ""scheduled outage"" as provided in Section 8.2. Please see suggested definition:</p> <p>SCHEDULED OUTAGE – the removal of the Plant or any of its Units for regular scheduled inspection, testing, preventive maintenance, corrective maintenance, repairs, replacement or improvement that does not constitute Major Maintenance, and which had been approved and scheduled by the System Operator. "</p>	<p>No need to define "Scheduled Outage" since this is understood by any layman in the power industry.</p>

<p>EPPA 1.2.5 Interpretation "1.2.5 references to this Agreement or any other document are to that document as from time to time amended, varied, added to, substituted, renewed, extended, restated, novated or replaced; " "Suggest to revise for clarity: 1.2.5 references to this Agreement or any other document are to that document as from time to time amended; "</p>	<p>We stick to our own provision.</p>
<p>EPPA-Article 2.4.2 Responsibilities of Seller 2.4.2 SELLER shall comply with all Applicable Requirements in force from time to time during the term hereof required for the performance of its obligations hereunder. Suggest to Delete "from time to time"</p>	<p>We stick to our own provision. There is no harm to retain the phrase "from time to time".</p>
<p>EPPA-Article 2.5.2 Responsibilities of Buyer 2.5.2 BUYER shall comply with all Applicable Requirements in force from time to time during the term hereof required for the performance of its obligations hereunder. Suggest to Delete "from time to time"</p>	<p>We stick to our own provision. There is no harm to retain the phrase "from time to time".</p>
<p>We note that in your previous communication sent on 17 April (attached for your reference), LUECO has allowed BIDDER to nominate a new power plant that is owned by an Affiliate Company ("Affiliate Plant") as long as the Bidder is given the authority by the Affiliate Company to nominate the Affiliate Plant and granting that it satisfies the 2 conditions: 1) The Affiliate Plant is available to supply for the full duration of the Cooperation Period; and</p>	

2) The Affiliate Plant has enough capacity to supply LUECO.

With this direction, BIDDER revised its EOI on 19 April to nominate Affiliate Plant as one of its supply sources together with PLANT who has yet to secure its COC targeted within the year.

To clarify, please see the proposed arrangement and advise if this will be allowed by LUECO:

BIDDER is participating in the LUECO CSP as the accredited Bidder

- In view of the COC requirement, and given that BIDDER as a greenfield plant has yet to secure its COC this year, BIDDER included nominated Affiliate Plant as one of its sources
- BIDDER to submit all documentary requirements, including the proper authorization from Affiliate Plant, except for the attachments listed in Annex 7 which will come from Affiliate Plant as shown below:
 - Identification or list of characteristics of the Nominated Power Plant or portfolio of plants
 - Certificate of Compliance (COC)
 - Market Participation Agreement for the Nominated Plant
 - Details of Interconnection, Operation and Maintenance of the Nominated Power Plant or portfolio of plants
 - BOI if applicable
- Granting that BIDDER wins the CSP, BIDDER to sign the EPPA with LUECO and will supply using Affiliate Plant until Bidder secures its COC

We hope to get your view on the said plan in order to set the direction of our participation. Thank you.

The Terms are acceptable to LUECO. In addition to the above, please submit your Authority from Affiliate Company to be included in Envelope 2.