

**POWER SUPPLY AGREEMENT
ON THE SALE OF ELECTRICITY**

This Power Supply Agreement (PSA) entered into this _____ between:

The **NATIONAL POWER CORPORATION** (NPC), a government-owned and controlled corporation duly organized and existing by virtue of Republic Act No. 6395, as amended, with principal office at NPC Office Building Complex, corner Quezon Avenue and Agham Road, East Triangle, Diliman, Quezon City, Philippines, represented by its President and CEO, **Mr. FROILAN A. TAMPINCO**, who is duly authorized to represent it in this transaction, (“**NPC-SPUG**”);

- and -

_____, a distribution utility organized and existing under the laws of by virtue of PD 269 as amended, with principal office address at _____ represented by its Board President, **Mr./Ms.** _____, who is duly authorized to represent it in this transaction, (“**CUSTOMER**”);

(jointly referred to as the “Parties”)

WITNESSETH THAT:

WHEREAS, pursuant to Section 70 of Republic Act No. 9136 and Section 1.a and Section 3.a of Rule 13 of the Implementing Rules and Regulations (IRR) of Republic Act No. 9136, the Small Power Utilities Group (SPUG) of NPC is responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system;

WHEREAS, Section 1.b of Rule 13 of the IRR of Republic Act. No. 9136 states that the Missionary Electrification function of SPUG shall be funded from the revenues from sales in the missionary areas and from the Universal Charge to be collected from all electricity End-users as determined by the Energy Regulatory Commission (ERC);

WHEREAS, Section 3.b of Rule 13 of the IRR of Republic Act. No. 9136 obliges SPUG to periodically assess the requirements and prospects for bringing its functions to commercial viability on an area-by-area basis, including a program to encourage private sector participation;

WHEREAS, the Universal Charge that shall be determined by ERC will be based on the Missionary Electrification Development Plan (MEDP) that the Department of Energy (DOE) formulates in consultation and coordination with NPC-SPUG, National Electrification Administration (NEA), New Private/Power Providers (NPPs), Independent Power Producers, Distribution Utilities (DUs) and Qualified Third Parties (QTPs);

WHEREAS, the MEDP shall include the prioritization of projects and particularly the use of the Universal Charge;

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WHEREAS, the ERC and NPC-SPUG shall facilitate the determination of the universal charge based on the concluded Power Supply Agreements (PSAs) between NPC-SPUG and its CUSTOMERs that will include contracted demand and energy;

WHEREAS, the PSA shall serve as basis for the prioritization on the allocation of the universal charge in the implementation of programs and projects in the corresponding DUs customers,

WHEREAS, Section 23 of Republic Act No. 9136 and Section 4.f of Rule 7 of the IRR of Republic Act No. 9136 mandate a distribution utility to provide universal service within its franchise area as part of its social obligations;

WHEREAS, Section 4.h of Rule 7 of the IRR of Republic Act No. 9136 mandates a distribution utility to supply electricity in the least cost manner to the captive market within its franchise area;

WHEREAS, Department Circular No. 2003-12-011 of the DOE enjoins all distribution utilities to provide adequate, affordable, quality and reliable electricity,

NOW, THEREFORE, for and in consideration of the foregoing premise and the mutual covenants hereinafter contained the Parties agree as follows:

SECTION ONE - DEFINITION OF TERMS

1 Definitions and Interpretation

1.1 Definitions. Wherever used in this Agreement, Schedules, Attachments or Annexes, unless the context otherwise requires, the following items shall have the following meanings:

- (a) “Allowable Downtime” a period not exceeding the number of hours per generating unit listed in Annex C – (Maintenance Schedule) during which NPC-SPUG shall undertake planned inspection, maintenance, repair and overhaul of any generating unit including any unscheduled outage thereof.
- (b) “Arrearages” means the outstanding power billings and other charges due from power customers.
- (c) “Assignability” means by reason of private sector participation in the generation function in the franchise area of the CUSTOMER, NPC-SPUG shall assign, sell or transfer a part or all of its rights under this Agreement.
- (d) “Basic Rate” is the Subsidized/Approved Generation Rate (SAGR) duly approved by ERC
- (e) “Billing Energy” means the Registered Energy adjusted for whatever loss/correction factors, rounded to the nearest full KWH, whenever computation results in a fraction of a KWH. The Billing Energy shall be used for calculating the basic energy charges.

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- (f) “Billing Period” means the time interval specified by NPC-SPUG in which CUSTOMER’s consumption is regularly recorded, accumulated, and read for the purpose of billing.
- (g) “Capacity/Fixed Cost” means costs such as manpower services, overhead costs and others except fuel costs related to the generation of electricity as determined by the ERC
- (h) “Competitive Selection Process” or “CSP” shall be consistent with the principles of Section 2.e and Section 3.b of Department Circular No. DC 2004-01-001 of the DOE and have the meaning referred in the Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas, approved in ERC Resolution No. 11, Series of 2005.
- (i) “Contract Demand” means the power in kilowatt (KW) allocated by NPC-SPUG to CUSTOMER as stated in the Service Specifications in the Agreement.
- (j) “Contract Energy” means the energy in kilowatt-hour (KWH) per billing period allocated by NPC-SPUG to CUSTOMER as stated in the Service Specifications in the Agreement.
- (k) “Contract Year” means each successive period of twelve (12) consecutive Billing Months during the Commercial Operations Period.
- (l) “Customer” means the Distribution Utility which purchases electric power and energy from NPC-SPUG.
- (m) “Defaulting Party” means the Party causing the Event of Default.
- (n) “Delivery” means the transmission of electricity from the generating plant to the Point(s) of Delivery of CUSTOMER.
- (o) “Delivery Point” means the metering point defined in Annex A as mutually agreed by both parties.
- (p) “Delivery Voltage” means the 13.8 kV service voltage at the Point/s of Delivery in accordance with the Philippine Distribution Code.
- (q) “Department of Energy” or “DOE” means the government agency created pursuant to Republic Act No. 7638, as amended by Republic Act No. 9136 and Republic Act No. 9513.
- (r) “Distribution Development Plan” or “DDP” means the annual plan of distribution utilities as prescribed by Section 23 of Republic Act No. 9136 and Department Circular No. 2004-02-002 of the DOE.

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- (s) “Distribution Utility” or “DU” as defined in Republic Act No. 9136, including existing Local Government Units which has an exclusive franchise to operate a distribution system
- (t) “Energy Regulatory Commission” or “ERC” means the agency created under Section 38 of Republic Act No. 9136.
- (u) “Event of Force Majeure” and “Force Majeure” means the condition provided for in Section 8.2.
- (v) “Forced Outage” means any instance of inability of NPC-SPUG to meet the load demand or to provide Spinning Reserve by supplying power to which the Power Station has been dispatched by the CUSTOMER, except for events of Force Majeure.
- (w) “Generating Unit” means a conversion apparatus including auxiliaries and associated equipment, functioning as a single unit, which is used to produce electric energy from some other form of energy.
- (x) “Generation Rate Adjustment Mechanism” or “GRAM” means the cost adjustment mechanism formulated to cover the change in fuel costs due to fluctuations in price of fuel oil (bunker and diesel), used by NPC in power generation, including purchased power cost.
- (y) “Good Industry Practice” shall have the meaning given in the Philippine Distribution Code.
- (z) “Government Authority” means any agency, office, authority, commission, department, or political subdivision of the Republic of the Philippines, whether national, regional, provincial, municipal or otherwise.
- (aa) “Guaranteed Dependable Capacity” means the total generating capacity of the power station/s, expressed in Kilowatt, that the NPC-SPUG is required to make continuously available to the CUSTOMER after availing of its Allowable Downtime per generating unit.
- (bb) “Incremental Currency Exchange Rate” or “ICERA” means the automatic adjustment clause in the power rate designed to reflect the cost adjustments in debt service payment and currency exchange related operating expenses due to fluctuations in the foreign exchange rates of the Philippine Peso vis-à-vis the US Dollar, Japanese Yen and other acceptable foreign currencies.
- (cc) “Missionary Electrification” means the provision of basic electricity service in Unviable Areas with the ultimate aim of bringing the operations in these areas to viability levels, including the provision of power generation and its associated power delivery systems in areas that are not connected to the national grid transmission system.
- (dd) “National Electrification Administration” or “NEA” means the government agency created under Presidential Decree No. 269, as amended.

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- (ee) “National Power Corporation-Small Power Utilities Group” or “NPC-SPUG” means the unit in NPC that directly administers and performs the missionary electrification function of NPC pursuant to Section 70 of Republic Act No. 9136. However, upon transfer of the generation function or assignment of rights pursuant to Section 4.8 hereof to the private sector or other entities, the term “NPC shall be replaced by SUPPLIER” to refer to the buyer, transferee, assignee, or successor-in-interest who has assumed all or part of the rights and obligations of NPC-SPUG under this Agreement.
- (ff) “New Private/Power Provider” or “NPP” means an entity that is technically and financially capable to serve or take over existing power generation function of NPC-SPUG in its service areas. It shall be selected after the conduct of a CSP as prescribed under Department Circular No. 2004-01-001 of the DOE and have the meaning referred in the Guidelines for the Setting and Approval of Electricity Generation Rates and Subsidies for Missionary Electrification Areas, approved in ERC Resolution No. 11, Series of 2005.
- (gg) “Power Supply Agreement” or “PSA” means this agreement and its annexes and other applicable laws, rules and regulations including those rules issued by NPC except when the context otherwise indicates.
- (hh) “True Cost Generation Rate” or “TCGR” means the total cost incurred by NPC-SPUG to generate the supply of electricity to CUSTOMER.
- (ii) “Universal Charge” means the charge imposable on all electricity end-users pursuant to Section 34 of Republic Act. No. 9136 and Rule 18 of the IRR of Republic Act No. 9136.
- (jj) “Variable Cost” means the fuel and lube costs incurred in generating electricity.

All definitions regarding tariff shall be based on ERC definitions

1.2 Interpretation. In this Agreement, Schedules, Attachments or Annexes, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) reference to a natural person includes any corporation or legal entity;
- (d) reference to a party in any document includes that party’s successors and permitted assigns;
- (e) reference to an Article, Section, Schedule, Attachment or Annex is to an article, section of, attachment to, or annex to this Agreement, and any such

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Annex or Schedule referred to should be incorporated by this reference and is an integral part of this Agreement;

- (f) unless otherwise provided herein, reference to a document includes an amendment or supplement to, or replacement or novation of, that document but disregarding any amendment, supplement, replacement or novation made in breach of this Agreement;
- (g) “including” shall not be construed as being by way of limitation and “otherwise” shall not be construed as limited by words with which it is associated;
- (h) any reference to a governmental ministry, department, authority or agency shall be construed as including a reference to any governmental ministry, department, authority or agency which succeeds to the functions thereof;
- (i) the word “reasonable” appearing before “approval”, “consent”, “satisfaction” or any similar word shall mean that the approval, consent, expression of satisfaction or other decision to be made as to the particular matter or thing concerned shall not unreasonably be withheld or delayed. Conversely, if the word “reasonable” does not so appear, the approval, consent, expression of satisfaction or other decision to be made may be given or made solely at the unfettered discretion of the Party concerned; and
- (j) the expression “to the best of its knowledge” shall mean to the best of the knowledge and belief of the Party concerned, having made all due and reasonable enquiry.

1.3 Abbreviations. In this Agreement, Schedules, Attachment or Annexes:

- (a) “kV” means kilovolt;
- (b) “kW” means kilowatt;
- (c) “kWh” means kilowatt hour;
- (d) “MW” means megawatt; and
- (e) “PhP” and “Peso(s)” mean the lawful currency of the Republic of the Philippines.

SECTION TWO – SCOPE OF AGREEMENT

SUPPLY

2.1 This Agreement governs the relationship between NPC-SPUG and CUSTOMER for the supply of electric power and energy. CUSTOMER shall inform NPC-SPUG of its requirements as determined in its Distribution Development Plan which shall be the basis for the contracted quantities.

SECTION THREE - TERM OF AGREEMENT

- 3.1 The Supply Service shall remain in full force and effect for a period of ten (10) years from Effectivity Date renewable by mutual consent of the parties. The CUSTOMER and/or NPC-SPUG shall have the option at any time to enter into a Power Supply Agreement in line with the entry of a New Power Provider (NPP). A party desiring to renew this agreement shall notify the other in writing at least sixty (60) days before the expiration of this agreement.
- 3.2 The CUSTOMER has the option to enter into Power Supply Agreement with the 3rd party generators with lower rates than the SAGR of NPC, not classified as NPP's under ERC Resolution No. 11, Series 2005.

SECTION FOUR - SERVICE SPECIFICATIONS

CONTRACT DEMAND AND CONTRACT ENERGY

- 4.1 Contract Demand and Contract Energy for each year during the ten (10) year effectivity of this Agreement as set forth in **Annex A** has been allocated by NPC-SPUG to CUSTOMER. These Contract Demand and Contract Energy shall not be increased or decreased by either party except in cases allowed in this Agreement.
- 4.2 In the event of an anticipated growth in demand, the Customer seeking to increase the contracted volumes, shall coordinate and consult with the NPPs/NPC-SPUG at least two (2) years in advance to enable NPC-SPUG to adjust its own capacity.
- 4.3 In the event that any requested increase in energy can be accommodated by the existing dependable capacity of NPC-SPUG while maintaining the required reserve capacity, CUSTOMER shall notify NPC-SPUG in writing sixty (60) days prior to the anticipated increase for the purpose of adjusting the CONTRACT ENERGY. NPC-SPUG shall confirm the request in writing within thirty (30) days from receipt of the request.

SERVICE RELIABILITY

- 4.4 NPC-SPUG shall provide continuous and stable supply of electricity in accordance with good utility practice. The rights of the CUSTOMER on the quality of service shall be maintained or improved. Supply shall be available continuously except for interruption or reduction due to: a) causes beyond the control of NPC despite the exercise of due diligence and/or Force Majeure; b) transmission failure; and c) maintenance to ensure system stability and safety reasons as may be provided by laws, rules or regulations (See ANNEX C- Maintenance Schedule)
- 4.5 The parties shall have a period of three (3) years) from the effectivity of this agreement within which to improve their respective facilities to minimize the imbalance between supply and consumption, including ensuring the compliance of both parties with the pertinent technical specifications and performance standards set by RA 9136. Both Parties shall submit their respective current status and

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improvement programs within six (6) months upon effectivity of this Agreement ANNEX D (Improvement Programs).

- 4.6 Once the mechanism for settling imbalances in the supply and consumption of electricity has been established, and subject to appropriate rules, NPC-SPUG shall provide or procure Contract Demand and Contract Energy for delivery to CUSTOMER at the prices set out in this Agreement.

APPLICATION FOR INCREASE IN DEMAND AND ENERGY

- 4.7 CUSTOMER may apply for increases in electric supply requirement through an amendment in Contract Demand or Contract Energy for any particular year or years subject to the technical constraints of generating plants, transmission, substation, and other facilities and subject to such rates and to other terms and conditions as the parties may agree upon.

ASSIGNABILITY

- 4.8 NPC-SPUG shall assign, cede, transfer, allocate wholly or partly its rights and obligations under this agreement to an NPP, which has been selected by the CUSTOMER and/or NPC-SPUG through a competitive selection process, to take over the former's power generation function by reason of private sector participation.
- 4.9 CUSTOMER shall not assign, cede, transfer, allocate wholly or partly any of its rights and/or obligations under this Agreement without the prior written notice to NPC-SPUG.

SECTION FIVE - CHARGES AND ADJUSTMENTS

- 5.1 The CUSTOMER shall be billed and pay for energy delivered by NPC-SPUG in accordance with the Subsidized Approved Generation Rate (SAGR) as well as other adjustments and procedures as approved by the ERC and provided in **Annex B** on Charges and Adjustments.
- 5.2 Non-payment by the CUSTOMER of their power billings with NPC on or before the due date will incur Interest Charges in accordance with the NPC Credit and Collection Policy.

SECTION SIX – TERMINATION

- 6.1 The occurrence of the following events shall constitute just cause for the termination of the Agreement without prejudice to the provisions under Section Seven (Indemnification):
- A. **Default.** Failure by either party in the due observance or performance of any term, covenant, or agreement contained herein, which breach or failure continues unremedied or uncorrected for a period of thirty (30) days after written notice, specifying the breach and requiring it to be remedied, shall have been given to the breaching party by the other party.

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- B. **Assignment/Incapacity.** An assignment by either party for the benefit of creditors; the filing of a petition in bankruptcy by either party; adjudication of insolvency or bankruptcy of either party; application or petition to any tribunal for the appointment of receiver/s or appointment of receiver/s.
- C. **Breach.** Repeated acts of violation of the provisions of this Agreement, notwithstanding the cure or correction of the breach within the time allowed.
- D. Cessation by either party of its business, operations or legal existence.

SECTION SEVEN - INDEMNIFICATION

CROSS INDEMNITY

7.1 The Party at Fault shall indemnify, defend and hold harmless the Aggrieved Party, its officers, directors, employees, contractors, and agents from and against all damages, losses and reasonable expenses, including without limitation reasonable legal fees, suffered or paid by the Aggrieved Party as a result of any and all claims for personal injury, death or property damage, except economic loss, to third parties due to an event occurring during the Term of this Agreement and arising directly out of or resulting from any act or omission of the Party at Fault or its agents or employees, except to the extent that it was caused by any act or omission of the Aggrieved Party or the failure by the latter to take reasonable steps to mitigate the damage or harm. In the event such injury or damage results from the joint or concurrent negligent or intentional act or omission of the Parties, each shall be liable under this Section in proportion to its relative degree of fault.

NOTICE OF CLAIM

7.2 The Aggrieved Party shall deliver a notice of claim to the Party at Fault within ten (10) working days from the occurrence of the event or knowledge thereof which gave rise to such damage or injury. In the event that such notice is not given within the period of claim, the obligation of the Party at Fault shall be equally shared by both Parties.

CONSEQUENTIAL LOSSES

7.3 In no case shall any Party be entitled to its indirect or consequential losses or damages, whether or not such losses or damages are subject to the indemnities.

SURVIVAL

7.4 The provisions of this Section shall survive termination of this Agreement with respect to an event occurring before the termination.

SECTION EIGHT - MISCELLANEOUS PROVISIONS

FORCE MAJEURE

8.1 Force majeure is an extraordinary event which cannot be foreseen or which though foreseen, cannot be avoided. The event must render it impossible for a party to fulfill its obligation in a normal manner despite the exercise of due care. Force majeure shall not

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excuse either party from exercising due care to prevent it or minimize its effects. Force majeure includes, but shall not be limited to a storm, typhoon, lightning, flood, drought, earthquake, tsunami, fire, war, rebellion, insurrection, riot, naval or other blockade, labor disturbance, civil unrest, and other analogous circumstances natural or man-made. In the event of Force Majeure and there are facilities that can still be operated, a party shall continue to perform its obligations under this Agreement.

- 8.2 The restructuring of the electricity industry, unbundling of business functions or power rates, insolvency or business losses shall not be considered as an event of force majeure.
- 8.3 The affected party shall notify the other in writing of a force majeure situation. The other party shall have sixty (60) days to verify or deny in writing that such situation exists.
- 8.4 A verified event of force majeure which prevents a party from supplying or taking electricity for at least six (6) months, or agreed upon by both parties to prevent the supply or taking of electricity for a continuous period of at least six (6) months shall entitle either party to terminate this Agreement.

SETTLEMENT OF DISPUTES: ARBITRATION

- 8.5 The parties shall exert reasonable efforts to amicably settle all disputes arising in connection with this Agreement, as a condition precedent to arbitration. The Parties may proceed to arbitration in the event that the dispute is not settled within two (2) months from the time the dispute arose.
- 8.6 All disputes arising in connection with this Agreement and to which exclusive jurisdiction have not been vested in the appropriate government agency, shall be finally settled in accordance with the Philippine Arbitration Law (R.A. 876), under three arbitrators, each party to choose one arbitrator and the third arbitrator shall be chosen in accordance with the Philippine Arbitration Law. The proper court having jurisdiction over the principal office of NPC-SPUG or the principal office of CUSTOMER, shall have exclusive jurisdiction over such arbitration. No court action shall be initiated, except as provided under the Philippine Arbitration Law.

COURT LITIGATION

- 8.7 Any dispute arising in connection with this Agreement that the parties failed to settle amicably and are non-arbitrable shall be brought exclusively in the proper court having jurisdiction over the principal office of NPC-SPUG or the principal office of CUSTOMER.

ATTORNEY'S FEES AND LITIGATION EXPENSES

- 8.8 In the event of arbitration or litigation as provided in this Section, an amount of twenty percent (20%) of the value of the award by the arbitrator or court shall be made by the losing party to the prevailing party by way of attorney's fees and other expenses of litigation but in no case shall such amount be less than ₱ 10,000.00.

NOTICES

- 8.9 Any notice, demand or request by the parties to this agreement shall be deemed properly served if transmitted by registered mail with return card, postage prepaid, or delivered

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personally to the signatories or their duly authorized representatives at their indicated addresses.

VALIDITY AND BINDING EFFECT

8.10 This Agreement shall bind the parties, their respective assigns, buyers, transferees, subagreementors, or successors-in-interest. If any part or parts of this Agreement is or are declared invalid by competent courts during its effectivity, the other parts shall not be affected or impaired.

AMENDMENT

8.11 Any change, alteration, modification or addition to this agreement shall not be effective unless in writing and properly executed by the parties.

ENTIRE AGREEMENT

8.12 This Agreement shall supersede and cancel all previous agreements, understanding and practices between NPC-SPUG and CUSTOMER on the sale of electricity.

EFFECTIVITY

8.13 This AGREEMENT shall take effect on _____.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed in more than one copy each of which shall be deemed to be an original as of the date of this Agreement.

NATIONAL POWER CORPORATION

_____ **ELECTRIC
COOPERATIVE, INC.**

NPC-SPUG

Customer

By:

By:

Mr. FROILAN A. TAMPINCO
President

Mr. _____
Board President, _____

Signed in the presence of:

Mr. MELBURGO S. CHIU
Vice President, NPC-SPUG

Mr. _____
General Manager, _____

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

ACKNOWLEDGMENT

Before me, a Notary Public for and in Quezon City, Philippines, this ____ day of _____, 2009, personally appeared:

Mr. FROILAN A. TAMPINCO CTC No. Date & Place of Issue

known to me and to me known to be the same persons who executed the foregoing Power Supply Agreement, consisting of 13 pages, including the page where this Acknowledgment is written, all pages signed by both parties and their instrumental witnesses, and they acknowledged before me that the same is their free and voluntary act and deed and that of the Corporation/entity they each represent.

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

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

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

ACKNOWLEDGMENT

Before me, a Notary Public for and in Quezon City, Philippines, this ____ day of _____, 2009, personally appeared:

<u>Name</u>	<u>CTC No.</u>	<u>Date & Place of Issue</u>
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known to me and to me known to be the same persons who executed the foregoing Power Supply Agreement, consisting of 13 pages, including the page where this Acknowledgment is written, all pages signed by both parties and their instrumental witnesses, and they acknowledged before me that the same is their free and voluntary act and deed and that of the Corporation/entity they each represent.

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

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

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ANNEX A

**CONTRACT DEMAND AND CONTRACT ENERGY ALLOCATED TO CUSTOMER
PER DELIVERY POINT**

1. Contract Year	Contract Demand (MW)	Contract Energy (kWh)
2009	_____	_____
2010	_____	_____
2011	_____	_____
2012	_____	_____
2013	_____	_____
2014	_____	_____
2015	_____	_____
2016	_____	_____
2017	_____	_____
2018	_____	_____

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Annex B

CHARGES AND ADJUSTMENTS

1. This Annex provides for the charges and adjustments applicable to the Agreement for the Supply of Electricity provided by NPC-SPUG to CUSTOMER.

TARIFF

2. The tariff on electricity as approved by the ERC and the provisions of this Agreement shall be the bases of the Basic Charges and other Billing Adjustments to be billed by NPC-SPUG to CUSTOMER for the supply of electricity under this Agreement. Any ERC approved tariff increases/adjustments shall be applied to this agreement accordingly

Sample Coop: Aurora Electric Cooperative, Inc. (AURELCO)

Basic Rate	=	P 3.7064 /kw-hr
Capacity/Fixed Cost	=	P13.1825 /kw-hr
Variable Cost	=	P11.0329 /kw-hr

Arrearages = P /kw-hr

GRAM = _____ (to be determined during its quarterly application)

ICERA = _____ (to be determined during its quarterly application)

PENALTIES

3. All penalties from over/under consumption vis-à-vis contracted energy shall be effective after three (3) years from signing of the Agreement and shall be revenue neutral.
4. If the CUSTOMER fails to meet the annual Contracted Energy by more than five percent (5%), except by Force Majeure and other causes beyond the control of the CUSTOMER, the CUSTOMER shall still pay for the Full Capacity Cost/Fixed Cost component of NPC-SPUG's True Cost Generation Rate (TCGR) of the undelivered Contracted Energy;
5. If the CUSTOMER offtake is in excess to the Contracted Energy by more than five percent (5%), CUSTOMER shall pay for the Full Variable Cost component of the True Cost Generation Rate (TCGR) of the excess energy;
6. If NPC-SPUG fails to meet the annual Contracted Energy, and the CUSTOMER secures an alternative supplier to meet the deficiency, NPC-SPUG shall pay for the electricity produced by the CUSTOMER not to exceed the difference between the true cost of generation of NPC-SPUG and SAGR.
7. In the event that NPC-SPUG fails to meet the annual Contracted Energy, and the CUSTOMER is unable to secure an alternative supplier, NPC-SPUG shall pay the

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CUSTOMER the equivalent of the Fixed Cost Component of the Distribution Charge for the undelivered energy as approved by the ERC.

INTEREST CHARGES

8. Non-payment by the CUSTOMER of their power billings with NPC on or before the due date will incur Interest Charges computed in accordance with the NPC Credit and Collection Policy as Annex E.

CHANGES TO CHARGES AND ADJUSTMENTS

9. The charges and adjustments provided in Annex B may from time to time be reviewed and amended in accordance with prevailing laws, rules or regulations.

FORM OF PAYMENT

10. Payments may be in the form of cash, demand drafts, checks or other cash equivalents. Bank charges shall be borne by the CUSTOMER. If at any point in time the check issued by CUSTOMER is drawn from insufficient funds, all subsequent payments will have to be in the form of cash or manager's or cashier's checks.

TIME AND PLACE OF PAYMENT

11. Bills for electric power delivered during a billing period and/or bills for other charges covered by this Agreement due NPC-SPUG if any, shall be served upon CUSTOMER within ten (10) days of the succeeding billing period and must be paid without the necessity of demand not later than twelve noon (12:00 Noon) of the last working day of the succeeding month.
12. Payments shall be made at NPC-SPUG's nearest area offices, with which CUSTOMER normally transacts operational matters, or at the NPC-SPUG's main or regional offices, or with an authorized collector of NPC-SPUG.

DISPUTED BILLS

13. Disputed bills shall be questioned in writing by CUSTOMER within sixty (60) days from the date of its receipt and shall be resolved within sixty (60) days from the date of filing of the claim. Failure to question such bills on time shall constitute a waiver by CUSTOMER of any claim on such bills. Failure of NPC-SPUG to act on the claim of CUSTOMER within the sixty (60) day period shall be deemed a decision in favor of CUSTOMER's claim.
14. Disputed bills shall be paid by CUSTOMER without deductions or offsets except **in the case of clear mathematical error. Deduction of offsets shall be allowed, such adjustment shall be applied in the next billing month.** Disputed billing shall not be an excuse or ground for CUSTOMER to delay payment of succeeding billings or unilaterally deduct any amount therefrom.
15. "Failure to correct erroneous billing on the part of NPC-SPUG within 60 days period the original billing served to the customer shall be deemed final."
16. In case of disputed billings, CUSTOMER shall present the ground/s of dispute and shall meet with the authorized representative of NPC-SPUG to reconcile the disputed bills, provided that if the dispute cannot be resolved by the representatives the matter shall be subject to arbitration.

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17. The NPC-SPUG or the CUSTOMER shall be entitled to interest equivalent to the prime lending rate for the quarter of NPC-SPUG's or CUSTOMER's depository bank based on a 360-day year, for under-billings or overpayments from the date that the demand for payment or reimbursement was made, if such demand is later found to be meritorious.

ARREARAGES

18. Any power bill or account of CUSTOMER not paid on due date shall bear a floating rate of interest computed from the first day after it becomes due and payable, based on the non-prime lending rate for each quarter of the Philippine National Bank. Interest on overdue accounts shall be computed based on a 360-day year. If any account becomes overdue for more than six (6) months, CUSTOMER shall pay an additional penalty of one percent (1%) per month for every additional month of delay beyond six months.

ADJUSTMENT DUE TO INACCURATE METERS, FRACTIONAL BILLINGS, AND RATE REVISIONS WITHIN A BILLING PERIOD

19. In the event that a billing is found erroneous due to wrong reading, arithmetical mistakes or omissions, NPC-SPUG shall send CUSTOMER a debit/credit memo within sixty (60) days from the date of bill's receipt to correct the error. NPC-SPUG shall also be deemed to waive any claim on any billing error if it fails to send notice of such billing error to CUSTOMER within sixty (60) days from billing date.

ADJUSTMENTS DUE TO RATE REVISIONS WITHIN A BILLING PERIOD

20. Should the effective date of a new and duly approved rate schedule fall within a billing period. **The new approved rate shall be applied on the next billing period, to allow the CUSTOMER to include such billing adjustment on their next billing month,** two computation sheets shall be prepared. The first sheet shall be calculated by applying the old rate schedule to CUSTOMER's Billing Energy (as if the old rate schedule was in effect for the entire billing period), and then multiplying the resulting charges including any Billing Adjustments by the ratio of the number of days that the old rate schedule was effective during the billing period to the total number of days in the billing period. The second sheet, on the other hand, shall be calculated by applying the new rate schedule to CUSTOMER's Billing Demand and Billing Energy (as if the new rate schedule was in effect for the entire billing period), and then multiplying the resulting charges including any Billing Adjustments by the ratio of the number of days that the new rate schedule was effective during the billing period to the total number of days in the billing period. These shall be consolidated in a single power bill.

FRACTIONAL BILLING

21. During the period when service is started or when service is terminated, adjustments in demand-related charges in CUSTOMER's bill shall be made taking into account the ratio of the number of days that electric service is not furnished to the total number of days in the billing period. Discontinuance of electric service due to non-payment of bills shall not be considered under this provision but billing adjustment shall not exceed one continuous billing period.
22. Payment of CUSTOMER with overdue account shall be applied to the most onerous account in the following order:

- a) **Miscellaneous account**

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- b) Rent account
- c) Interest account
- d) Amortization on Restructured Account
- e) Overdue account
- f) Current account

OTHER ADJUSTMENTS

23. Laws rules or regulations may provide for other adjustments to the power and energy bill of the CUSTOMER.

DISCONNECTION OF POWER SERVICE

24. **In addition to the above-stated penalty interest charges**, NPC-SPUG shall have the right, subject to not less than seven (7) calendar days advanced written notice to CUSTOMER, to discontinue supplying electric services and to refuse to resume electric service for non-payment of bills and to refuse to resume electric service as long as any amount including any accrued interest and other charges not necessarily limited to the foregoing, remains unpaid. Notwithstanding such discontinuance of electric service, CUSTOMER shall pay the basic demand and energy charges based on the Contract Demand and Contract Energy, and failure by CUSTOMER to make full payment within a period of six (6) months shall entitle NPC-SPUG to terminate the Agreement without prejudice to the right of NPC-SPUG to recover on unpaid bills and other penalties from CUSTOMER.

Annex C
Maintenance Schedule

Annex D
Improvement Programs

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Annex E
NPC's POLICY ON INTEREST ON OVERDUE AND RESTRUCTURED POWER
ACCOUNTS