Bid Requirements
Contract Capacity of 260 MW (net), effective 26 February 2024

In order to become an Interested Bidder and obtain a copy of the Bidding Documents, a party must submit the Expression of Interest, Confidentiality Undertaking and Acknowledgement and Consent Form for Data Privacy, and pay the Participation Fee, by the Expression of Interest Deadline, following the form, substance and process defined and provided in the Invitation to Bid.

In order to qualify to bid, a Bidder must timely submit to the BAC-PSA Secretariat by uploading to the cloud-based online repository/folder assigned to the Interested Bidder, three (3) separate and password-protected zip folders (.zip file) containing the scanned copies (.pdf file) of its Document Submissions, following the form, substance and process defined and provided in the Invitation to Bid and the Instructions to Prospective Bidders ("**IPB**").

In case the Bidder formed an unincorporated joint venture or consortium for the purpose of this Bidding, its members must, **on or before the Bid Submission Deadline**, submit the joint venture or consortium agreement which provides evidence that their rights and obligations, including liabilities in this Bidding and the resulting Power Supply Agreement ("**PSA**"), are solidary. Each party to the joint venture or consortium must separately submit Qualification Documents (Envelope 1) and Technical Proposal (Envelope 2) (e.g., if each joint venture or consortium member offers a different Nominated Plant), but shall submit (as one) only one Bid Price, including the Bid Security (Envelope 3). For this purpose, in relation to the Qualification Documents and Technical Proposal, each party to a Bidder joint venture or consortium shall be construed as the Bidder. Moreover, each party to the joint venture or consortium must separately submit an undertaking as to its commitment to infuse the required equity contribution to the joint venture or consortium.

Summary of the Bidding Process and the Pay-as-Bid Mechanism

This Bidding will be "Pay-as-Bid" type of competitive public bidding, in consonance with the relevant provisions of the Department of Energy ("DOE") Department Circular No. DC2023-06-0021, Series of 2023 and Energy Regulatory Commission ("ERC") Resolution No. 16, Series of 2023. It will be open to all Bidders that meet the financial, technical, commercial, and legal requirements of this Bidding. In evaluating the financial offers of the Bidders, the best interests of Meralco's captive customers shall be paramount. As such, and to this end, the principle of least cost in the supply of power to captive customers, as provided in Section 23 of EPIRA, shall prevail and be applied to establish and determine the Best Bid/s.

In this Bidding, an Interested Bidder shall submit a Proposed Tariff indicating its (i) Offered Contract Capacity, and (ii) the corresponding Total Delivered Headline Rate ("**Headline Rate**") for the Required Contract Period. The minimum Offered Contract Capacity per Bidder shall be at least 50 MW (net).

The Bidder's Headline Rate shall be computed and evaluated at 50% plant capacity factor. The Interested Bidder's Headline Rate is subject to a pre-determined Reserve Price, which will only be revealed by the BAC-PSA to the Qualified Bidders during the Opening of Bid Prices (the "**Reserve Price**").

The Interested Bidder's Headline Rate, as inputted by the Interested Bidder to and computed by the Financial Evaluation Workbook, should be **less than or equal** to the Reserve Price for the Headline Rate.

The general procedure for the Bidding shall be as follows:

(a) The BAC-PSA shall publish the Invitation to Bid in a newspaper of general circulation for two (2) consecutive weeks, which publication shall be at least seven (7) calendar days apart. The Invitation to Bid and Bid Requirements shall likewise be posted on Meralco's website at <*https://company.meralco.com.ph/csp/ongoingbids*>. The BAC-PSA shall also request the Department of Energy (DOE) to post in its Competitive Selection Process E-based Portal (**"DOE CSP E-based Portal"**) the Invitation to Bid and Bid Requirements.

The Bidders have until **4:00 P.M. of 8 March 2024** ("**Expression of Interest Deadline**") to submit their Expression of Interest, Confidentiality Undertaking, and Acknowledgement and Consent Form for Data Privacy, and pay the Participation Fee, following the form, substance and process prescribed and provided in the Invitation to Bid, to become Interested Bidder/s (hereinafter, "**Interested Bidder**"). The BAC-PSA shall declare a failed bidding if less than two (2) Bidders timely submit their Expression of Interest by the Expression of Interest Deadline. Late submissions and requests for additional time shall not be accepted/allowed.

(b) The BAC-PSA shall conduct a Pre-Bid Conference at **1:30 P.M. to 3:00 P.M. on 12 March 2024**. Prior to the Pre-Bid Conference, Interested Bidders are to submit advance queries or requests for clarifications to the Bidding Documents on or before **1:00 P.M. of 11 March 2024** to the BAC-PSA Secretariat through the following email address: ***BACPSASecretariat@meralco.com.ph*** and using the queries/comment matrix template made available on Meralco's website. The BAC-PSA shall consolidate the said advance queries and prioritize the discussion thereof during the Pre-Bid Conference; however, if time permits, the BAC-PSA may entertain and discuss additional queries raised by the Interested Bidders. Only the Interested Bidders' authorized representative/s (not more than three (3) persons) indicated in the Expression of Interest are allowed to attend and participate in the Pre-Bid Conference, and to submit written queries or comments to the Bidding Documents.

During the Pre-Bid Conference, with the Interested Bidders' authorized representative/s indicated in the Expression of Interest as witnesses, Meralco shall deliver to the BAC-PSA the Reserve Price (contained in a sealed envelope) and the BAC-PSA shall place or transfer custody of the same to the bank representative of the BAC-PSA's authorized and independent bank custodian, for the security and custody of the Reserve Price envelope, which envelope shall be returned to the BAC-PSA at the time and place of the Opening of Bid Prices.

Transfer or assignment by, or purchase/investment/acquisition of rights and interest in, an entity that submitted the Expression of Interest, Confidentiality Undertaking and Acknowledgement and Consent Form for Data Privacy may only be exercised once on or before **4:00 P.M. of 12 April 2024** and on the condition that: (i) transfer or assignment is in favor of a juridical entity in which Bidder is a direct shareholder with Controlling interest, (ii) the transferee or assignee simultaneously submits an Expression of Interest, Confidentiality Undertaking, and Acknowledgement and Consent Form for Data Privacy in its name, and (iii) in cases of purchase/investment/acquisition of rights and interest in the Bidder, the Certificate Authorizing Registration (CAR) must already be issued by the Bureau of Internal Revenue (BIR) and the purchase/investment/acquisition duly registered in the stock and transfer book of the corporation.

(c) Bidders will then have until **4:00 P.M. of 22 March 2024** within which to submit written queries, or requests for clarifications or revisions to the Bidding Documents. Thereafter, the BAC-PSA shall respond or issue the necessary notices and bid bulletins to address said queries or comments, which shall be no later than **4 April 2024**.

(d) An Interested Bidder may increase its indicated Offered Contract Capacity and/or change its indicated Nominated Plant on or before **4:00 P.M. of 12 April 2024**, subject to the Interested Bidder's simultaneous payment of the additional proportionate Participation Fee and submission of a new Expression of Interest form reflecting the said change/s.

(e) **On or before 9:00 A.M.** of **19 April 2024** (the **"Bid Submission Deadline"**), the Interested Bidders shall submit to the BAC-PSA their Document Submissions by uploading to the cloud-based online repository/folder assigned to the Interested Bidder, three (3) separate and password-protected zip folder (.zip file) containing the scanned copies (.pdf file) of its (a) Qualification Documents (Envelope 1) to demonstrate its compliance with all the qualification requirements; (b) Technical Proposal (Envelope 2); and (c) Bid Price (Envelope 3), which includes the Bid Security. As part of the Bid Submission Deadline, **between 8:00 A.M. to 9:00 A.M. of 19 April 2024**, the Interested Bidder shall submit, through its authorized representative/s indicated in the Expression of Interest or such authorized representative's duly authorized agent/attorney-in-fact (as evidenced by a notarized special power of attorney), at the Lobby, Lopez Building, Meralco Center, Ortigas Ave., Pasig City, the original copy of all the said documents, including the latest original copy of the Expression of Interest, Confidentiality Undertaking, and Acknowledgement and Consent Form for Data Privacy, all placed in a sealed box (the

"**Original Copy**"). Immediately after the Bid Submission Deadline, the BAC-PSA Secretariat shall begin to switch the Interested Bidder/s' ability to edit/write/upload to the cloud-based online repository/folder to the read-only mode and the Original Copy of all documents submitted may no longer be replaced.

The BAC-PSA shall declare a failed bidding if less than two (2) Bidders timely submit their Document Submissions by the Bid Submission Deadline. Late submissions and requests for additional time shall not be accepted/allowed. Submissions after the Bid Submission Deadline shall be rejected and returned unopened to the concerned Bidder. For the purpose of monitoring time during the Bid Submission Deadline, the Philippine standard time as provided in <*https://oras.pagasa.dost.gov.ph/widget.shtml*> shall be followed.

Thereafter, the opening of the Interested Bidder/s' (a) Qualification Documents (Envelope 1) and (b) Technical Proposal (Envelope 2) (where Envelopes 1 and 2 are collectively referred to as the "**Pre-Qualification Documents**") will proceed at **9:30 A.M. of 19 April 2024**, the process of which will be laid down in a separate bid bulletin or the house rules during the opening of the Pre-Qualification Documents (the "**Opening of Pre-Qualification Documents**"). During the Opening of the Pre-Qualification Documents, only when the Interested Bidder/s' name is called will it be instructed to email to the BAC-PSA Secretariat the password for the pertinent zip folder/file to be opened by the BAC-PSA.

As a general rule, Interested Bidder/s should ensure that the uploaded soft copy files of their Document Submissions are clear and complete as the BAC-PSA shall not be required to verify the contents of the Interested Bidder's electronic copy of the Document Submissions against the Original Copy. Instead, the opening of the Original Copy is subject to the BAC-PSA's sole discretion.

Only the Interested Bidder/s that timely submitted their Document Submissions (represented by their authorized representative/s named in their Expressions of Interest) by the Bid Submission Deadline are allowed to attend and participate in the Opening of the Pre-Qualification Documents, together with the CSP Observers invited by the BAC-PSA.

Before the BAC-PSA opens the said envelopes sequentially to determine the compliance and completeness of the Pre-Qualification Documents of the Interested Bidders, the BAC-PSA, witnessed by the authorized representative/s of the Interested Bidder/s, shall place or transfer custody of the sealed Envelope 3 (containing the original hard copy of the Interested Bidder/s' Bid Price) of all Interested Bidder/s that timely submitted their Document Submissions to a bank representative of the BAC-PSA's authorized and independent bank custodian, for its security and custody. For this purpose, the authorized representative/s of the Interested Bidder/s are required to sign over the sealed flap of its Envelope 3 before placing it inside the sealed container box of its Document Submissions. Only the sealed Envelope 3 of Qualified Bidders shall be returned to the BAC-PSA by the bank representative at the time and place of the Opening of Bid Prices (described below), as the BAC-PSA shall separately coordinate return by the bank representative (of the custodianship arrangement) of

the sealed Envelope 3 of Interested Bidder/s found to have "failed" or have been disqualified in the Pre-Qualification Evaluation to the concerned Interested Bidder.

Thereafter, the BAC-PSA shall proceed to open the envelopes of the Pre-Qualification Documents sequentially to determine its compliance and completeness. Interested Bidder/s whose Pre-Qualification Documents "passed" the "Pass/Fail" assessment for completeness shall have their Pre-Qualifications Documents subjected to further detailed evaluation, for a determination to the BAC-PSA's satisfaction if the said Interested Bidder/s complied with and are responsive to all the requirements and conditions specified in this IPB (the "**Pre-Qualification Evaluation**"). The BAC-PSA will then declare the number of days (after the Opening of Pre-Qualification Documents) that it will need to conduct the Pre-Qualification Evaluation. In the course of the Pre-Qualification Evaluation and as may be deemed necessary, the BAC-PSA and/or its Technical Working Group ("**TWG**"), as authorized by the BAC-PSA, may schedule a clarificatory conference with all Interested Bidder/s that timely submitted their Document Submissions, to seek clarification with respect to such Interested Bidder's Pre-Qualification Documents. However, an Interested Bidder may not change, alter, amend, or add to its Document Submissions. This notwithstanding, the BAC-PSA reserves the right to request additional information, and if necessary, to conduct additional verification to establish the veracity of the information/documents submitted. The CSP Observers shall be invited to attend the Pre-Qualification clarificatory conference of the BAC-PSA, through virtual video conferencing, the schedule and videoconference link of which will be communicated by the BAC-PSA Secretariat to the said observers.

Subsequently, the BAC-PSA shall release, through a bid bulletin, the result of the Pre-Qualification Evaluation as to which Interested Bidder/s will be allowed to proceed to Stage 3 (hereinafter, "**Qualified Bidder**"), which is the opening of the Qualified Bidder/s' Bid Prices (Envelope 3) (the "**Opening of Bid Prices**"). The schedule and venue for the Opening of Bid Prices shall also be included in the said bid bulletin. The CSP Observers shall be informed/invited by the BAC-PSA of the schedule and venue of the Opening of Bid Prices, at least five (5) days before the said date.

The BAC-PSA shall declare a failed bidding if there are less than two (2) Bidders that "passed" the Pre-Qualification Evaluation.

Before the start of the Opening of Bid Prices, the BAC-PSA shall receive back in custody from the bank representative of the BAC-PSA's authorized and independent bank custodian: (i) the sealed envelope containing the Reserve Price, and (ii) if the Opening of Bid Prices is conducted on a day subsequent to the Opening of Pre-Qualification Documents, the Interested Bidder/s' sealed Envelope 3. Thereafter, the bank representative will be excused from attending and further participating in the Opening of Bid Prices.

During the Opening of Bid Prices, only when the Qualified Bidder's name is called will it be instructed to email to the BAC-PSA Secretariat the password for the pertinent zip folder/file to be opened by the BAC-PSA. To clarify, only Qualified Bidders,

together with the CSP Observers invited by the BAC-PSA, are allowed to attend and participate in the Opening of Bid Prices.

For Qualified Bidder/s, the BAC-PSA shall proceed to evaluate if their Proposed Tariffs are in accordance with the Financial Evaluation Workbook released to the Bidders by the BAC-PSA, as well as to confirm the sufficiency of the Bid Security. Should the BAC-PSA find any showing of deliberate submission of the incorrect version of the Financial Evaluation Workbook or any tampering by the Qualified Bidder of the formula or other inputs in the Financial Evaluation Workbook, as submitted in its Bid Price (Envelope 3), it can be cited as material misrepresentation and a ground for disqualification.

In making its evaluation of the Proposed Tariff, the BAC-PSA shall first examine if the Qualified Bidder's Headline Rate, as inputted by the Qualified Bidder to and computed by the Financial Evaluation Workbook, is **less than or equal to** the Reserve Price of the Headline Rate. Thereafter, all the Offered Contract Capacities of the Qualified Bidders that meet the Reserve Price of the Headline Rate shall be stacked from lowest to highest Headline Rate until the required Contract Capacity (i.e., 260 MW [net]) is filled up. The BAC-PSA shall determine, from among the Qualified Bidders whose Offered Contract Capacities have filled up the required Contract Capacity, the most advantageous bid ("**Best Bid/s**"). For this purpose, the BAC-PSA shall notify the Bidders of the results of its evaluation and/or ranking of the Bids ("**Notification of Best Bid/s**").

If the resulting stack of Offered Contract Capacities goes beyond the required Contract Capacity (i.e., more than 260 MW), the Qualified Bidder that fills up the stack to complete the required Contract Capacity (hereinafter referred to as the "**Marginal Bid Offer**") shall have its Offered Contract Capacity reduced accordingly up to the extent of the required Contract Capacity at its Proposed Tariff. A Bidder with the Marginal Bid Offer and a candidate recipient of a Notification of Best Bid, which refuses to accept the reduction of its Offered Contract Capacity up to the extent of the required Contract Capacity at its Proposed Tariff, shall have its Bid Security forfeited equivalent to the proportionate percentage amount of the Bidder's Bid Security, based on the ratio of the required Contract Capacity that needs to be filled up (which the Bidder with the Marginal Bid Offer refused) to the Bidder's Offered Contract Capacity. For example, if the Marginal Bid Offer is for 100 MW but only 20 MW is needed to fill up the required Contract Capacity, Meralco shall draw on the entire amount of the Bid Security, retain twenty percent (20%) of its value, and return the balance to Bidder.

In case of a tie between or among Qualified Bidders having the lowest Bids or whose offers are considered the Marginal Bid Offer, the BAC-PSA shall give these bidders five (5) days to improve their Proposed Tariff by submitting a lower Headline Rate until the tie is broken. Subsequent occurrences of a tie, if any, shall be resolved in the same manner until a winner is determined.

Upon the Opening of the Bid Prices, if **no** Qualified Bidder "passed" the evaluation of Bid Prices, the BAC-PSA shall declare a failed bidding.

(f) The BAC-PSA shall complete a Post-Qualification within seven (7) days from the Notification of Best Bid to determine to its satisfaction whether the Bidder with the Best Bid complies with and is responsive to all the requirements and conditions specified in this IPB.

(g) If the BAC-PSA determines that the Bidder with the Best Bid "passed" all the criteria for Post-Qualification, it shall declare the said Bidder as the Winning Power Supplier and submit a report or recommendation to Meralco for approval of the issuance of a Notice of Award to the Winning Power Supplier within five (5) days from such approval.

If the BAC-PSA determines that the Bidder with the Best Bid "failed" the Post-Qualification, it may proceed to notify the Bidder with the next lowest ranked Headline Rate ("**Next Best Bid**") that it will be subjected to a Post-Qualification evaluation ("**Notification of Next Best Bid**"), subject to any reduction of its Offered Contract Capacity, if necessary, should it be the Marginal Bid Offer. If the said Bidder with the Next Best Bid also fails the Post-Qualification, a similar procedure for Post-Qualification may be repeated by the BAC-PSA for the Bidder with the next lowest Headline Rate, and so on until the notified Bidder passes the Post-Qualification and is declared as the Winning Power Supplier.

This option notwithstanding, if **no** Bidder with the Best Bid (or Bidder with the Next Best Bid) "passed" the Post-Qualification, and there is no other Bidder/s with the Next Best Bid, the BAC-PSA shall declare a failed bidding.

(h) Within twenty (20) calendar days from the Winning Power Supplier's receipt of the Notice of Award, Meralco and the Winning Power Supplier shall sign and execute the PSA.

The BAC-PSA shall declare a failed bidding if all Winning Power Suppliers refuse or fail, without justifiable cause, to accept the Notice of Award or timely sign the PSA template within the period prescribed in this IPB, and there are no Bidder/s with the Next Best Bid.

(i) Within ten (10) calendar days from the signing and execution of the PSA, the Winning Power Supplier shall post a Performance Bond equivalent to three (3)-month contract cost of the proposed PSA computed using the bid price offered by the Winning Power Supplier.

(j) Within five (5) calendar days from Meralco's receipt of the Performance Bond, Meralco shall issue a Notice to Proceed stating therein that all the conditions stated in the Notice of Award have been complied with.

(k) Simultaneous with the Winning Power Supplier's preparation to post a Performance Bond, the Winning Power Supplier and Meralco shall submit the pre-filing requirements to ERC, which submission should be within fifteen (15) calendar days from the signing and execution of the PSA. Within thirty (30) calendar days from the signing and execution of the PSA, the relevant joint application for approval

of the PSA shall be filed with the ERC. The Winning Power Supplier shall bear the costs of pre-filing publication and docket/filing fee, while Meralco shall bear the costs of publishing and posting the notice of public hearing to be issued by the ERC for the said joint application.

The Winning Power Supplier must ensure that it can immediately submit the documents that form part of the pre-filing requirements/checklist with the ERC for an application for approval of a power supply agreement, in accordance with the ERC Resolution No. 16, Series of 2023.

Qualification Documents (Envelope 1)

1. Legal Qualification Requirements

(a) The Bidder must have the authority, in form and substance prescribed and made available by Meralco, to participate in this Bidding and execute the PSA;

(b) The Bidder must be a duly incorporated, validly existing domestic partnership or corporation duly registered with the Securities and Exchange Commission ("**SEC**"). If Bidder formed a joint venture or consortium for the purpose of participating in this Bidding, it must submit the joint venture or consortium agreement which provides evidence showing that their rights and obligations, including liabilities in this Bidding and the resulting PSA are solidary, as well as an undertaking as to their respective commitment to infuse the required equity contribution to the joint venture or consortium;

(c) The Bidder and any of its Affiliates engaged in power generation must have no record of Unsatisfactory Performance. For this purpose, "**Unsatisfactory Performance**" means any of the following:

(i) In relation to any power supply or off take agreements with Meralco and/or its Affiliates engaged in power generation, distribution, and supply (the list of Meralco's Affiliates are provided in the IPB) that was commenced or in the process of implementation within the last five (5) years prior to the Bid Submission Deadline by the Bidder –

(1) a record of failure by the Bidder or any of its Affiliates engaged in power generation to satisfactorily perform any of its material obligations for any such power supply or off take agreements within the last five (5) years that remains unsettled. It also includes a record of failure to timely pay or comply with its material obligations in any of its finance documents with creditors entered into in connection with the development and implementation of the said power supply or off take agreements.

The Bidder shall submit notarized certifications issued by Meralco and/or its Affiliates engaged in power generation, distribution, and supply attesting that within the last five (5) years the Bidder or any of its Affiliates engaged in power generation has no previous record of failure to perform any of its material obligations for such power supply or off take agreements. For this purpose, only (i.e., submission of notarized certifications), the financial lender/s of the Bidder or any of its Affiliates engaged in power generation of any such power supply or off take agreements need not issue the said certification but their identities must be declared or disclosed;

(2) the expulsion of the Bidder or any of its Affiliates engaged in power generation from any such power supply or off take agreements;

(3) the termination or suspension of any such power supply or off take agreements due to the willful breach of its obligations by the Bidder or any of its Affiliates engaged in power generation;

(4) the material violation of laws and/or regulations by the Bidder or any of its Affiliates engaged in power generation applicable to any such power supply or off take agreements, including but not limited to environmental, health, safety, labor and social welfare laws and regulations, as evidenced by findings of the relevant competent authority; or

(ii) Inclusion in a blacklist issued by any governmental agency of the Philippines or in the Debarred and Cross-Debarred Firms & Individuals list posted in the World Bank website (*www.worldbank.org/debarr*), whether as an individual contractor, partnership or corporation or as a member of a joint venture or consortium;

(d) The Bidder and any of its Affiliates engaged in power generation must not have an Outstanding Dispute or Unsettled Dispute **or** any due and demandable financial obligation/s, in each case with Meralco and/or its Affiliates engaged in power generation, distribution, and supply. The Bidder and any of its Affiliates engaged in power generation must also not have any due and demandable energy settlement amounts with the Philippine Electricity Market Corporation ("**PEMC**") and/or Independent Electricity Market Operator of the Philippines ("**IEMOP**").

For this purpose, "**Outstanding Dispute or Unsettled Dispute**" refers to any pending or unsettled judicial, administrative, contractual or alternative dispute

resolution proceeding between the Bidder or any of its Affiliates engaged in power generation, on one hand, and Meralco and/or its Affiliates engaged power generation, distribution, and supply, on the other, provided, that the following pending judicial or administrative cases involving the Bidder or any of its Affiliates engaged in power generation and Meralco are excluded from the definition of Outstanding Dispute or Unsettled Dispute:

Case Title and Docket Nos.	Subject Matter
Consolidated Cases of (a) ERC vs. San Miguel Energy Corporation, et. al., G.R. Nos. 246621-30 and (b) Manila Electric Company vs. San Miguel Energy Corporation, et. al., (G.R. No. 247352-61)	Supreme Court – Legality of ERC Order voiding the Luzon WESM prices during the November and December 2013 supply months
ERC I.U. v. Meralco and TMO (ERC Case No. 2015-025 MC)	ERC Investigating Unit complaint in relation to the generation cost price spike in November 2013 and December 2013
Meralco v. SPPC, et. al. (ERC Case No. 2013-077 MC)	Petition for Dispute Resolution with the ERC in relation to the refund of the 2.98% transmission line losses
In Re: Petition for Dispute Resolution Meralco vs. NPC et. al. (ERC Case No. 2010-002 MC)	Petition for Dispute Resolution with the ERC in relation to the implementation of the Mandated Rate Reduction
SPPC v. ERC, et. al, (CA G.R. SP NO. 176036) *SMEC v. ERC, et. al, (CA G.R. SP NO. 176037)*	Adjustment of Contract Price and Termination of PSA in light of Change in Circumstances provisions in the PSA

(e) The Bidder must be authorized under its articles of incorporation, constitutive or charter documents, or its equivalent, to engage in the business of power generation and supply of electricity as contemplated under the PSA;

(f) The Bidder must issue a notarized attestation against corruption;

(g) The Bidder must issue a notarized attestation of no existing, potential or future conflict of interest with the BAC-PSA; and

(h) The Bidder must issue a notarized certification that the offered Contract Capacity from the Nominated Plant, for the entire Required Contract Period, is not covered by any offtake agreement (e.g., a power supply agreement or ancillary services procurement agreement, including a financial-type arrangement of power supply agreement) that will conflict with the Bidder's obligation should it be declared the Winning Power Supplier.

2. Technical Qualification Requirements

The Bidder, whether directly or through any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent must submit: (i) list of power plant projects undertaken over the last ten (10) years; (ii) list of electricity generation plants that it has operated for the last five (5) years; and (iii) proof /documentation of track record for the last five (5) years of power plants operated by it;

3. Financial Qualification Requirements

(a) The Bidder must show satisfactory evidence that it has the financial capacity to fulfill its obligations with Meralco. This requirement may be complied with by the Bidder directly or through any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent. As evidence thereof, the Bidder or any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent, or in case of an unincorporated joint venture or consortium, each entity or party thereto, must:

(i) submit its audited (parent and consolidated, if applicable) financial statements for the last three (3) years (the latest of which must not be earlier than for the year ending December 31, 2022) and recent quarterly financial statements; and

(ii) the consolidated financial statements must show an Unrestricted Net Worth equivalent to Seven Million Pesos (PhP7,000,000.00) multiplied by MegaWatt (MW) of Offered Contract Capacity ("**Required Unrestricted Net Worth**") based on its submitted financial statements.

For this purpose, "**Unrestricted Net Worth**" means the sum of subscribed and paid up equity, including additional paid-in capital, and unrestricted retained earnings, preferred shares, perpetual shares less treasury shares of common, preferred, and perpetual shares. Unrestricted retained earnings means the amount of accumulated profits and gains realized out of the normal and continuous operations of the company after deducting therefrom distributions to stockholders and transfers to capital stock or other accounts, and which is: (1) not appropriated by its Board of Directors for corporate expansion projects or programs; (2) not covered by a restriction for dividend declaration under a loan agreement; (3) not required to be retained under special circumstances obtaining in the corporation such as when there is a need for a special reserve for probable contingences (as defined in SEC Memorandum Circular No. 11-08 dated December 5, 2008); and (4) not otherwise covered by any other legal restriction (which refers to any injunction, judgement, or order

issued by any judicial authority) on the ability of the company to distribute or otherwise apply its equity.

Technical Proposal (Envelope 2)

The Interested Bidder must identify the proposed power plant/s that it or its direct shareholder representing Controlling interest is the developer of, owner of, and Controls, and has sufficient authority to enter into the offtake agreement with Meralco, which must be capable of supplying the Offered Contract Capacity to Meralco for the Required Contract Period, *provided* that it must be a peaking power plant (firm and dispatchable) wherein each unit of the Plant must be capable of generating its rated capacity during MERALCO's daily peak hours for seven days a week, *provided further*, that it must be technically capable of producing the entire Offered Contract Capacity ("**Nominated Plant**"). For clarity, the Nominated Plant must have separate delivery points for each power plant generating unit as registered with the Wholesale Electricity Sport Market (WESM), which Delivery Points should be interconnected with the Luzon, Visayas or Mindanao grid upon Operations Effective Date ("**OED**") of the power plant/s and which power plant/s must be able to export power to the Luzon grid upon OED.

In relation to the Nominated Plant, the Bidder must provide or submit **for each power plant or proposed site of the power plant**:

(a) Technical characteristics of the Plant showing evidence of compliance to the technical requirements stated in the Invitation to Bid's Terms of Reference Table ("**TOR Table**"). If multiple units, total capacity of connected generating units per Delivery Point must be a minimum of 50 MW (gross) and each generating unit should have the same fuel type;

(b) From 26 February 2024 and for the duration of the PSA, no capacity and electrical output within the Contract Capacity shall be contracted under an agreement apart from the PSA resulting from this Bidding;

(c) The Nominated Plant must be covered by a Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) from the ERC at the start of the OED of the PSA, as submitted by the Bidder as a certified true copy by (i) the ERC; or (ii) the corporate secretary/assistant corporate secretary, in which case it must be under oath and notarized;

(d) The Nominated Plant must be registered as a direct member of the WESM and a copy of its Market Participation Agreement for the Nominated Plant, which shall be certified as a true copy by (i) the PEMC and/or IEMOP; or (ii) the corporate secretary/assistant corporate secretary, in which case it must be under oath and notarized, must be submitted;

(e) The Nominated Plant's valid Fuel Supply Agreement, if available, otherwise a Fuel Procurement Plan containing a narrative description of strategies and plans for ensuring long-term availability of fuel and regulatory compliance on

fuel inventory and specification, which shall be certified as a true copy by the corporate secretary/assistant corporate secretary, in which case it must be under oath and notarized; and

(f) The Nominated Plant must be covered by a valid Transmission Service Agreement (TSA) or, if embedded, a Distribution Wheeling Service Agreement (DWSA), which shall be duly certified by the National Grid Corporation of the Philippines (NGCP) or applicable distribution utility, or the corporate secretary/assistant corporate secretary, in which case it must be under oath and notarized.

Bid Price and Bid Security (Envelope 3)

Using the relevant forms prescribed in the IPB, the Bidder must submit its Bid Letter, Bid Security (as defined below), and Proposed Tariff (in hard copy form and in the **Financial Evaluation Workbook** encoded in a USB/thumb flash memory drive), uploaded to the cloud-based online repository/folder assigned to the Bidder in a password-protected zip folder [.zip file], and a signed Letter of Acknowledgement and Acceptance of the Power Supply Agreement template (collectively referred to as the "**Bid Price**").

For clarity, in accomplishing the Financial Evaluation Workbook, the Bidder shall consider the parameters, assumptions and/or requirements defined and stated in the "*Tariff Structure of Contract Price*" row/provision of the Invitation to Bid's Terms of Reference Table (TOR Table).

The Bidder shall not offer Capital Recovery Fee higher than the latest ERC-approved rate/s in its agreements with other offtakers for the same Nominated Plant and is required to submit a sworn undertaking to this effect.

The **Bid Security**, **equivalent to three (3)-month contract cost of the proposed PSA computed using the bid price offered by the Interested Bidder**, should be in the form of a managers check or an irrevocable standby letter of credit, which must be issued by one or more universal or commercial banks in the form required of the Bidders in the IPB (the "**Bid Security**"). The Bid Security requirement may be complied with by the Bidder directly, or, through any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent.

Dispute Resolution and Protest Mechanism

A decision of the BAC-PSA, at any stage of the CSP, may be questioned by filing a written request for reconsideration within ten (10) calendar days upon receipt of written notice or upon verbal notification. The BAC-PSA shall decide on the request for reconsideration within ten (10) days from receipt thereof, providing the concerned bidder a copy of the decision. If the request for reconsideration is not acted upon within the said period by the BAC-PSA, the same is deemed approved.

In the event that the request for reconsideration is denied, decisions of the BAC-PSA may be protested in writing to Meralco's Board of Directors, subject to the payment of a non-refundable protest fee. The protest must be filed within ten (10) calendar days from receipt of the resolution denying the request for reconsideration. A protest shall be made by the Bidder upon filing a verified position paper, addressed to Meralco's Board of Directors, by electronic means, which must be in PDF or Microsoft Excel format, as may be necessary.

The Bidder's protest shall be resolved within ten (10) calendar days from official receipt thereof, provided no further document is required by Meralco's Board of Directors. Any decision of Meralco's Board of Directors shall be final. After protests have been resolved with finality, an aggrieved party may file a timely petition to intervene in the application to be filed by the parties before the ERC for approval of the resulting PSA.

No suit or action shall be filed by the CSP Observers while the Bidding is underway.

In no case shall the pendency of any request for reconsideration to the BAC-PSA or any protest to the governing board of Meralco stay or delay the Bidding.