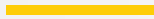




# REQUEST FOR PROPOSAL



9<sup>th</sup> Audit of the Market Operations  
for the period 26 June 2022 to 25 December 2024

**JANUARY 2025**

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This Request for Proposal is being issued by the Philippine Electricity Market Corporation (PEMC) to Bidders who intend to bid for the 9<sup>th</sup> Audit of the Market Operations for the period 26 June 2022 to 25 December 2024.

## 1. INSTRUCTIONS TO BIDDERS

The Instructions to Bidders is being issued in accordance with the Request for Proposal issued on 02 January 2024. Interested Parties shall be allowed to participate in the Bidding Process provided the following documents are electronically submitted three (3) working days prior to the scheduled Pre-Bid Conference:

- (a) Bidder's Registry of Information ("**Schedule 1**");
- (b) Undertaking of Usage of Information ("**Schedule 2**");
- (c) Acceptance of the Bidding Procedures ("**Schedule 3**");
- (d) Sworn Statement on Conflict of Interest ("**Schedule 4**"); and
- (e) Secretary's Certificate showing the authority of the signatory/representative to bind the Bidder.

The above documents should be endorsed to the Procurement Specialist with the following format:

 Send	To	 <a href="#">Leonar I. Olayta</a>
	Cc	 <a href="#">Patrick S. Fernandez</a> ;  <a href="#">Janeth A. Ceniza</a>
	Bcc	
	Subject	[NAME OF COMPANY] Expression of Interest to Participate in the Bidding for the 9th MO Audit

### ELECTRONIC MAIL:

TO : MR. LEONAR I. OLAYTA  
Procurement Specialist  
Email Address: [liolayta@wesm.ph](mailto:liolayta@wesm.ph)

CC : MR. PATRICK S. FERNANDEZ  
Email Address: [psfernandez@wesm.ph](mailto:psfernandez@wesm.ph)

: MS. JANETH A. CENIZA  
Email Address: [jaceniza@wesm.ph](mailto:jaceniza@wesm.ph)

### 1.1. Clarifications and Amendments to Bidding Documents

- 1.1.1. Bidders may request for clarification on any part of the bidding documents, in writing and submit the same to the Procurement Committee, through the Procurement Specialist, no later than five (5) calendar days after the conduct

of pre-bid conference. The Procurement Committee is composed of PEMC personnel appointed by the PEMC President.

- 1.1.2. The Procurement Committee reserves the right to amend, revise, supplement, modify, or clarify the Bidding Procedures. Such amendments, revisions, supplements, modifications, or clarifications, if any, will be made through Supplemental Bid Bulletins, copies of which will be made available to all Bidders. Upon the issuance of a Supplemental Bid Bulletin, the same shall automatically be incorporated into and made an integral part of the Bidding Procedures. It shall be the responsibility of the Bidder to inquire and secure the Supplemental Bid Bulletins that may be issued by the Procurement Committee.
- 1.1.3. Bidders are required to acknowledge receipt and acceptance of the terms and conditions of the Bidding Procedures and each Supplemental Bid Bulletin on the space provided in the letter of transmittal. Failure to acknowledge receipt and acceptance of the terms and conditions of the Bidding Procedures and each Supplemental Bid Bulletin shall cause the Bid to be considered as non-responsive to the Bidding Procedures, which shall result in the disqualification and/or rejection of the Bid.
- 1.1.4. Any Supplemental/Bid Bulletin issued by the Procurement Committee shall be disseminated to the Bidders thru e-mail. It is conclusively presumed that the information and procedures set forth in the Bidding Procedures and each Supplemental Bid Bulletin have been taken into account by the Bidder in preparing its Bid. However, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed in writing or thru e-mail and be allowed to modify or withdraw their bids in accordance with Section 1.8.9 (Modification and Withdrawal of Bids).
- 1.1.5. Deviations or exceptions made in a Bid shall cause the Bid to be considered as non-responsive to the Bidding Procedures, which shall result in the disqualification and/or rejection of the Bid. Nothing contained in this Section should be deemed to impair the rights reserved by the Procurement Committee in the Bidding Procedures.

## **1.2. Bidding Schedule**

- 1.2.1. The process for the Bidding ("Bidding Schedule") is as follows:

<b>Activity</b>	<b>Date</b>
Issuance of Request for Proposal (RFP)	02 January 2025
Pre-bid Conference	10 January 2025, 2PM
Bid Clarifications	10 to 28 January 2025, (EOD, PH Time)
Bid Submission Deadline	03 February 2025, (EOD, PH Time)
First Bid Opening	05 February 2025, (2PM, PH Time)

Technical Evaluation	05 to 14 February 2025
Second Bid Opening	19 February 2025, (2PM, PH Time)
Financial Evaluation and Overall Scores Finalization	19 to 21 February 2025
Communication with the Bidders on the Result of the Bidding Process	24 February 2025
Negotiation with the Highest Rated Responsive Bidder	26 February 2025
Awarding of Contract and Issuance of Notice of Award/Notice to Proceed	11 March 2025

- 1.2.2. The Bidding Schedule may be changed by the Procurement Committee without prior notice. Bidders will be notified promptly of any change thereto through Supplemental Bid Bulletin/s.
- 1.2.3. Unless otherwise expressly specified in writing, all references to times and dates shall refer to Manila time. Should any of the above dates fall on a holiday, the deadline shall be extended to the same time of the next working day.

### **1.3. Condition of the Bidding and Selection of the External Auditor**

- 1.3.1. Bidders are notified that the Procurement Committee, at its own discretion, reserve the right to: (i) accept or reject any or all bids or any part thereof; (ii) terminate or withdraw from the proposed selection of the External Auditor or any part of the bidding process or to vary any of its terms at any time without giving any reason therefor; (iii) waive any defect contained therein; (iv) accept the bid which is deemed most advantageous to PEMC; (v) draw and forfeit the full amount of the bid security upon the occurrence of a bid security drawing event; (vi) add to, modify, supplement, or change the request for proposal or any portion thereof and any other aspect of the bidding at any time, for any reason whatsoever and without giving prior notice, provided that the bidders will be notified subsequently of such additions, modifications, supplements, or changes; and (vii) exercise any other remedy granted by Philippine law or the bidding procedures.
- 1.3.2. PEMC shall not assume any obligation whatsoever to compensate or indemnify a Bidder for any expense, fee, or loss that it may incur in participating in the bidding for the proposed audit, including the due diligence process, nor does it guarantee that an award will be made.
- 1.3.3. The Procurement Committee shall proceed with the selection of the External Auditor even if only one bid was submitted prior to the bid submission deadline, provided that such bid was submitted by a qualified Bidder and was a compliant bid.

- 1.3.4. By agreeing to the bidding procedures, Bidders absolutely and irrevocably waive any and all present and future rights they may have to question or reverse by any administrative or judicial processes, the lawfulness of the bidding, any disqualification or the rejection of any bid, any ruling or decision of the procurement committee in relation to the bidding and to seek and obtain a writ of injunction or prohibition or restraining order against PEMC, their directors, officers, employees or consultants and/or any third party to prevent or restrain the bidding process or any proceedings related thereto, the holding of a bidding or any proceeding related thereto, the selection of the highest rated responsive bidder, the performance of the final transaction documents and any draw on or forfeiture of the bid security.

#### **1.4. Responsibilities of the Bidder**

- 1.4.1. The Bidder is responsible for the following:
- a. Taking steps to carefully examine all the Bidding Documents;
  - b. Examining all conditions, local or otherwise, affecting the conduct of the audit and/or implementation of the contract;
  - c. Assessing the facilities available and needed for the conduct of audit, if any;
  - d. Complying with its responsibility to inquire or secure Supplemental/Bid Bulletin/s.
  - e. Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
  - f. Authorizing the Procurement Committee or its duly authorized representative/s to verify all the documents submitted;
  - g. It has full knowledge that it shall not be granted relief on the plea of negligence, error or mistake in its Bids;
  - h. Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact. If the Bidder is a corporation, partnership, or joint venture, a copy of which must be attached as an annex to the Bidder's Registry of Information (Schedule 1) as part of the First Bid (Technical Requirements); and
  - i. Complying with existing labor laws and standards, if applicable.
- 1.4.2. Failure to observe any of the below responsibilities shall be at the risk of the Bidder concerned.
- a. It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the audit, including: (i) the location and the nature of the contract, project, or work; (ii) climatic conditions; (iii) transportation

facilities; and (iv) other factors that may affect the cost, duration and execution or implementation of the contract, project, or work

- b. The PEMC shall not assume any responsibility regarding erroneous interpretations or conclusions by the Bidder out of the data furnished by the Procurement Committee.
- c. Before submitting their bids, the Bidders are deemed to have become familiar with all existing laws, decrees, regulations, bilateral treaty or agreements, which may affect the contract in any way.
- d. The Bidder shall bear all costs associated with the preparation and submission of its bid, and PEMC will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

### **1.5. Joint Venture/Technical Partnership**

- 1.5.1. The Principal Bidder shall identify its joint venture (JV) /Technical partner and include its name during bid submission, including all supporting documents evidencing said partnership.
- 1.5.2. Procurement Committee shall communicate only to the Principal Bidder, however, eligibility documents by both Principal Bidder and the Joint Venture/Technical Partner shall be required.

### **1.6. Pre-Bid Conference**

- 1.6.1. A pre-bid conference shall be held on 10 January 2025, 02:00 PM via Microsoft Teams which shall be facilitated by the Procurement Specialist to clarify and address the Bidders' questions on the Request for Proposal, particularly on the technical and financial components of the Project.
- 1.6.2. Bidders are required to attend the pre-bid conference to ensure that they fully understand the requirements.
- 1.6.3. Any statement made at the pre-bid conference shall not modify the terms of the Bidding Documents and Terms of Reference (TOR), unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.
- 1.6.4. Only written requests or clarifications submitted only during the clarifications period after the pre-bid conference shall be considered in the deliberation of the Procurement Committee for possible issuance of a Supplemental/Bid Bulletin.



## **1.7. Preparation of Bids**

- 1.7.1. The Bidders must submit a single Bid.
- 1.7.2. Each Bid must be composed of two (2) separate Archive Files containing the First Bid (Technical Proposal) and the Second Bid (Financial Proposal) as detailed in Section 1.8 (Requirements for Submission of Bid). Bids submitted shall be the basis for contract negotiations with the selected audit firm. Bidders shall properly and completely accomplish all documents submitted as part of the Bid. No alterations of the documents, including the Financial Bid Submission Form, and Bid Security shall be allowed after the deadline of the submission of the bids.
- 1.7.3. Bids of a partnership or a corporation shall be signed in the name of the entity by an authorized partner or authorized officer, as the case may be, followed by the name, signature, and designation of the person authorized to sign the Bid and the Contract.
- 1.7.4. All Bids, documents, specifications, and all other information pertinent thereto shall be prepared and submitted in the English language.
- 1.7.5. Bidders are required to acknowledge receipt and acceptance of the terms and conditions of the Bidding Procedures and each Supplemental Bid Bulletin. Failure to acknowledge receipt and acceptance of the terms and conditions of the Bidding Procedures and each Supplemental Bid Bulletin shall cause the Bid to be considered as not responsive to the Bidding Procedures, which shall result in the disqualification and/or rejection of the Bid.
- 1.7.6. The Procurement Committee reserves the right to disqualify or otherwise not evaluate Bids that do not fully comply with the Bidding Procedures, including Section 1.8 (Requirements for Submission of Bid).
- 1.7.7. Bidders must familiarize themselves with local conditions and take this into account in preparing their bids. To obtain first-hand information on the scope of the audit and on the local conditions, Bidders are required to participate in the pre-bid conference.
- 1.7.8. Bidders' costs of preparing their bids and negotiating the contract, including a visit to PEMC (as needed), are not reimbursable as a direct cost of the project. In the same manner, PEMC shall be relieved of any unforeseen health conditions which may or may not necessarily be attributable to the visitation of the PEMC office.

## **1.8. Requirements for Submission of Bid**

### 1.8.1. Technical Bid

- 1.8.1.1. The Technical Bid shall be submitted following the formalities required in Section 1.8.3 (Formal Requirements for Bids Submission).
- 1.8.1.2. The Technical Bid shall not include any financial information relevant to the Financial Bid.
- 1.8.1.3. Proposed professional staff must, at a minimum, have the experience indicated in Annex A Section 4.3 (Qualifications of External Auditor/ External Auditor Team Members).
- 1.8.1.4. The Technical Bid shall contain the following information/documents:
  - i. Index of Document Submissions ("Schedule 9a");
  - ii. Bidder's Registry of Information ("Schedule 1") including all supporting documents required thereto such as but not limited to (a) articles of incorporation and by-laws of the Bidder including its JV partner/technical partner; (b) Latest General Information Sheet of the Bidder including its JV partner/technical partner; (c) financial documents of the Bidder including its JV partner/technical partner for the past three (3) years; and (d) documents/agreements showing the joint venture partnership agreement/technical services partnership;
  - iii. Technical Bid Submission (Schedule 5)
  - iv. An audit methodology which shall contain a concise, complete and logical description of how the Audit team shall carry out the services to meet all requirements of the Terms of Reference. This shall also indicate the approach, expected deliverables and the degree of detail of such output in accordance with Schedule 5 Section 1.4a
  - v. A work program (refer to Schedule 5 Section 1.5 Work Program Form) showing in graphical format (Gantt chart) the duration of major activities, anticipated coordination meetings, phasing, and delivery dates of outputs as required under the Terms of Reference;
  - vi. Audit team composition, including the team structure. The team structure and assigned tasks should be specifically identified using the Audit Team Composition Forms (Schedule 5 Section 1.6);

- vii. Name, age, nationality, background employment record, and professional experience of each nominated expert, including ongoing projects, with particular reference to the type of experience required for the tasks assigned. If the nominated expert is working for or affiliated with another company, other than the participating bidder, the name of the company as well the position being held should also be indicated. The description for each of the members should be presented in the Curriculum Vitae format presented in Schedule 5 Section 1.7 Curriculum Vitae Form. Only one (1) Curriculum Vitae (CV) for each expert involved in the Project may be submitted for each position.
- viii. Copy of the license of the members of the audit team, to be attached with the CV, if he or she is a member of a certain profession.
- ix. Comments, if any, on the Terms of Reference to improve performance in carrying out the Project and proposed approach to consolidate efforts across the four major components of this project. Innovativeness shall be appreciated, including workable suggestions that can improve the quality/effectiveness of the Project. In this regard, unless the Bidder clearly states otherwise, it shall be assumed by the Procurement Committee that the work required to implement any such improvements, are included in the inputs shown on the Bidder's Work Program.
- x. A list of facilities requested by the Bidder to be provided by PEMC that may include support facilities such as: counterpart staff, office space, local transportation, equipment, domestic administrative support, etc. that would be needed to carry out the project.
- xi. Comments provided in the form as prescribed in Schedule 5 Section 1.8 (Comments and Clarifications on the Template Contract for Services), if any, on the Contract enclosed in this RFP. If there is none, it shall be assumed by the Procurement Committee that all provisions set forth therein are amenable to the Bidder.

#### **1.8.2. Financial Bid Submission (Schedule 6)**

- 1.8.2.1. The Financial Bid shall be submitted following the formalities required in RFP Section 1.8.3 (Formal Requirements for Bids Submission).

- 1.8.2.2. The Financial Bid amount must follow the payment schedule and form as prescribed in Schedule 6 Section 1.1 and 1.2.
- 1.8.2.3. The Financial Bid must be accompanied by the required Bid Security.
- 1.8.2.4. The Financial Bid shall contain the following information/documents:
  - i. Index of Document Submissions ("Schedule 9b");
  - ii. Financial Bid Submission ("Schedule 6")
  - iii. Milestone Payment Schedule
  - iv. Bid Security (use the form as may be applicable)

### 1.8.3. **Formal Requirements for Bids Submission**

- 1.8.3.1. Bids submission must be in the English language. The official language to be used in the Bidding, Bidding Procedures and the Contract, reports, communications, notices, and correspondences shall be English.
- 1.8.3.2. Soft copies of the bid documents in encrypted portable document format (.pdf) must be submitted through a secured file transfer facility (SFTP) in which account credentials will be provided by PEMC. The password for the encrypted soft copies should only be provided to the Procurement Committee during the opening of bids, in accordance with the bidding schedule.
- 1.8.3.3. Bidders shall group the bid described above in two (2) separate zip files, labelled as "TECHNICAL BID" and "FINANCIAL BID". Refer to '**Annex B**' for the checklist and guidelines for submission of bid.
- 1.8.3.4. The authorized representative shall affix his/her initial on all pages of the original and copies of the technical and financial proposals.
- 1.8.3.5. Any bid submitted after the deadline for submission and receipt of bids shall be declared "Late" and shall not be accepted by the Procurement Committee.

### 1.8.4. **Bid Currencies**

- 1.8.4.1. Bid prices shall be quoted in:
  - i. If the Principal Bidder is a Philippine-based company, PHP
  - ii. If the Principal Bidder is a foreign company, US Dollars.

1.8.4.2. For purposes of bid evaluation and comparison, bids denominated, in USD shall be converted to PHP based on the exchange rate prevailing on the day of the bid opening.

1.8.4.3. Payment of the contract price shall be made in either PHP or USD.

**1.8.5. Bid Validity**

1.8.5.1. Bids shall remain valid for a period not exceeding one hundred (120) calendar days from the date of the opening of bids.

1.8.5.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procurement Committee may request Bidders to extend the period of validity of their bids. The request and the response shall be made in writing. The bid security should also be extended corresponding to, at least, the extension of the bid validity period. A Bidder may refuse the request, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

**1.8.6. Bid Security**

1.8.6.1. Each Bidder shall submit as part of the Second Bid, a Bid Security in the form of a cash/manager's check or bank draft or irrevocable letter of credit issued by a reputable bank in accordance with the following terms and conditions. Bidders may refer to Schedule 6 Section 1.2 for the prescribed bid security forms.

i. The Bid Security shall guarantee that each Bidder shall completely, faithfully, fully, and promptly comply with each of its obligations under the Bidding Procedures and each portion thereof during the Bid Validity Period and any extension thereof. Should the Bidder violate the Bidding Procedures and each portion thereof, PEMC may draw on and forfeit the Bid Security submitted by such Bidder for the full amount of the Bid Security.

ii. The Bid Security is payable upon the occurrence of a drawing event as certified by PEMC in the demand certificate, notwithstanding any conditions, demands or objections by the Bidder/Account Party. A "drawing event" shall mean any violation by a Bidder of the Bidding Procedures or any of the representations, warranties and qualifications required therein

and/or a failure by the Winning Bidder to comply with its payment obligations or undertakings under the Contract.

- iii. In case of a Bank Draft or Irrevocable Letter of Credit, the Bid Security must provide that if the demand certificate is presented to the issuing bank, that the same shall be released without any restrictions, conditions, inquiry or right of objection whatsoever on the part of the issuing bank without notice to the Bidder prior to such payment and notwithstanding any conditions, demands, or objections by the Bidder or any other Party;
- iv. The Bid Security must be drawable at the office of the issuing bank or surety company in Metro Manila, Philippines. The Bid Security must expressly state that neither the Bidder nor the issuer may terminate it prior to its stated expiration date without the written consent of PEMC;
- v. The Bid Security must provide that PEMC may make multiple drawings on it;
- vi. The Bid Security shall be subject to the International Standby Practices 1998 and in case of dispute arising from, or in connection with the interpretation or implementation thereof, shall be subject to Philippine Law; and
- vii. The Bid Security shall provide for a contact person and address, telephone number, and facsimile of the issuing bank for notification and demand.
- viii. The Bid security issued in favor of the PEMC shall be equal to the percentage of the bid amount in accordance with the following schedule:

Form	Amount
Cash or manager's check (Recommended)	1%
Bank Draft or Irrevocable Letter of Credit	1.5%

1.8.6.2. Any bid not accompanied by an acceptable bid security shall be rejected and rated as "failed".

- i. Bid securities shall be returned after the bidder with the Highest Rated Responsive Bid has signed the contract and furnished the performance security.

- ii. Upon signing of the contract, and the posting of the performance security, the Bidder's bid security will be released, but in no case later than the bid security validity period.
- iii. The Procurement Committee reserves the right to accept or reject any Bid Security and the Bid for non-compliance with this Section.

#### 1.8.7. Submission of Bids

1.8.7.1. Both the Technical Bid and the Financial Bid must be submitted simultaneously on or before 03 February 2025, EOD ("Bid Submission Deadline"). The Technical Bid and Financial Bid shall each be secured with password, and sufficiently and clearly marked in accordance with guidelines set out in '**Annex B**'.

1.8.7.2. Bids submitted after the Bid Submission Deadline shall be rejected outright and returned unopened to the Bidder. Each Bidder shall only be allowed to submit one (1) Bid, which must each be composed of the Technical Bid and Financial Bid. A Bidder shall not be allowed to submit more than one (1) Bid, neither shall joint Bids between two (2) or more Bidders or persons be allowed.

#### 1.8.8. Proposal Evaluation Scoring

The proposal shall be evaluated by Procurement Committee. The total score shall be computed based on the formula below.

$$\text{Total Score} = \text{Sub-total for the Technical Evaluation} \times 70\% + \text{Sub-total for the Financial Evaluation} \times 30\%$$

- The criteria for evaluation are as follows:
  - Technical Proposal

I. QUALIFICATION OF THE FIRM	10
<u>Experience in Similar Projects</u> •Firm's experience in undertaking similar audits such as but not limited to IT Audits •Records of previous engagement and quality of performance in other projects • Relationship with previous and current clients • Overall work commitments.	10

<ul style="list-style-type: none"> <li>• <u>Geographical distribution of current/impending projects and attention to be given by the Bidder.</u></li> </ul>	
<b>II. APPROPRIATENESS OF AUDIT METHODOLOGY</b>	<b>40</b>
<u>a. Quality of approach/method</u> <ul style="list-style-type: none"> <li>• <u>Degree to which the approach matches the requirements</u></li> <li>• <u>Clarity, Feasibility, comprehensiveness, innovativeness of approach</u></li> <li>• <u>Quality of interpretation of objectives, risk and suggested solutions.</u></li> </ul>	20
<u>b. Work program</u> <ul style="list-style-type: none"> <li>• <u>Feasibility and sufficiency of the staffing requirement vis-à-vis the proposed work program.</u></li> <li>• <u>Degree to which the approach matches with the requirements of the TOR</u></li> </ul>	20
<b>III. QUALIFICATION OF PERSONNEL*</b>	<b>50</b>
<u>a. Key Auditor (Team Leader)</u> <u>Each component should be headed by a key personnel; Project Lead is most likely on of the Component leads</u>	20
<u>b. Auditors (Members of the Audit Team )</u> <u>Each component should be staffed with suitable personnel who performs on-site audit or review</u>	20
<u>c. Support</u> <u>Each component should be staffed with suitable support personnel who performs coordination (within the team and between client and auditees)</u>	10
<b>Total Technical Merit Score</b>	<b>100</b>

- Financial Proposal:

$$Sf = Fm/F \times 100$$

Where:

**Sf** is the financial score of the Financial Proposal under consideration;

**Fm** is the lowest priced bid amongst Financial Proposals

**F** is the price of the Financial Proposal under consideration.

#### 1.8.9. Modification and Withdrawal of Bids



- 1.8.9.1. A Bidder may modify its bid after it has been submitted, provided that the modification is received prior to the deadline prescribed for submission and receipt of bids. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.
- 1.8.9.2. A Bidder, may through a letter of withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason, provided that the letter of withdrawal is received by the Procurement Committee prior to the deadline prescribed for submission and receipt of bids.
- 1.8.9.3. Bids requested to be withdrawn shall be returned unopened to the Bidders. The Bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly for the same contract.
- 1.8.9.4. No bid may be withdrawn or modified after the deadline for submission of bids.

#### **1.8.10. Opening of Bids**

- 1.8.10.1. The Technical Bid shall be opened and checked for completeness on 05 February 2025, 2PM, PH Time.
- 1.8.10.2. Bidders (who have not been disqualified) or their duty authorized representatives may be present at the time, date, and place when the Bids will be opened. Failure of a Bidder or its authorized representative to be present during the opening of the Bids shall be considered a waiver of its right to witness the opening and/or evaluation of the Bids. The Procurement Committee reserves the right to limit the number of attendees.
- 1.8.10.3. After the Procurement Committee has evaluated all the Technical Bid, it shall notify all the Bidders of whether their Technical Bid were rated "Passed" or "Failed" the minimum technical merit points in the Technical Evaluation. A Bidder whose Technical Bid was rated "Failed" shall be disqualified and shall not be allowed to participate further nor witness the Bidding Process. The Financial Bid shall be opened and checked for completeness on 14 March 2025, 2PM.
- 1.8.10.4. There shall be a failure of Bidding upon the occurrence of any of the following:
  - i. No Bid is received by the Bid Submission Deadline; or
  - ii. No First Bid is rated "Passed".

#### **1.8.11. Price Cap**

The maximum budget allocated for this project is PHP 25,000,000.00. Proposals with total costs exceeding this amount will not be considered. Bidders are expected to submit Financial Proposals that remain within this cap while meeting the requirements outlined in this RFP.

## **2. CONFLICT OF INTEREST**

- 2.1.** The Bidders (including its personnel and subcontractors) and any subsidiaries or entities controlled by such Bidder cannot be recruited to carry out a project that, by its nature, shall result in conflict with a prior or current project of such Auditor.
- 2.2.** Bidders shall not be related to the PEM Board and PEMC officers and employees, by consanguinity or affinity up to the third civil degree. The prohibition shall apply as follows:
- a. If the Bidder is an individual, sole proprietorship or a one person corporation, then to himself;
  - b. If the Bidder is a partnership, then to all its officers and members;
  - c. If the Bidder is a corporation, then to all its officers, directors and controlling stockholders; or
  - d. If the Bidder is a JV, the provisions of items (a), (b), or (c) of this Section shall correspondingly apply to each of the members of the said joint venture, as may be appropriate.

Relationship of the nature described above or a failure to comply with the provisions of this clause will result in the rejection of the Bidder's bid.

- 2.3.** A Bidder is also considered to have a conflict of interest in any of, but not limited to the events described as follows:
- a. If the Bidder has controlling share with other bidders and or with any of the WESM participants;
  - b. If the Bidder has the same authorized representative as that of another bidder for purposes of this Project;
  - c. If the Bidder participated as Consultant or resource person in the preparation of other bidder's proposal; or
  - d. Any other similar circumstance that would influence the decision of the Procurement Committee in relation to the bidding process.
- 2.4.** Bidders have the obligation to disclose any situation or actual or potential conflict that would affect their capacity to serve the best interest of PEMC. Failure by a Bidder to fully disclose a potential conflict of interest at the time of eligibility requirement submission, or at a later date in the event that the potential conflict arises after such date, shall result in the cancellation of service contract.

### **3. GENERAL CONDITIONS**

- 3.1.** PEMC assumes no responsibility for interpretations or conclusions drawn by a Bidder from data and/or information furnished by PEMC, their directors, officers, employees, advisors, consultants, or agents or for the accuracy or completeness of such data and information.
- 3.2.** A Bidder is conclusively presumed to be familiar with and must at all times fully comply with Philippine Laws.
- 3.3.** Unless otherwise provided herein, all risks, taxes, costs, fees, expenses, and liabilities incurred, directly or indirectly, by a Bidder in the preparation of its Bid, inclusive of its due diligence efforts as well as the cost incurred in securing the Bid Security, including bank fees or fees and disbursements of its advisors, if any, shall be borne and paid by such Bidder whether its Bid is accepted or rejected for any reason. PEMC may not be held liable for such risks, taxes, costs, fees, expenses, and liabilities. PEMC, their directors, officers, employees, advisors, consultants, and agents may not be held liable in the event that a court of competent jurisdiction or other Governmental Body declares the Bidding, selection and/or award invalid or sets it aside, for any reason whatsoever at any time.
- 3.4.** The information contained in the Bidding Procedures does not constitute a binding obligation of PEMC to award the Contract. Requesting and/or receiving Bids or any other information or document will not constitute an invitation or commitment by PEMC to enter into any agreement, undertaking or covenant with a Bidder.
- 3.5.** All deadlines set out by the Procurement Committee as outlined in the Bidding Procedures and other relevant documents or communications that may be issued from time to time during the course of the Bidding must be adhered to strictly. Late submissions will not be accepted;
- 3.6.** The Procurement Committee, at its own discretion, reserve the right to: (i) accept or reject any or all Bids or any part thereof; (ii) terminate or withdraw any part of the Bidding Process or to vary any of its terms at any time without giving any reason therefore; (iii) waive any defect contained therein; (iv) accept the offer which the Procurement Committee deems most advantageous to PEMC; (v) draw and forfeit the full amount of the Bid Security upon the occurrence of a Bid Security Drawing Event; (vi) exercise any other remedy granted by Philippine Law or the Bidding Procedures; and (vii) require the submission of additional documents and/or information in relation to the Bidding.
- 3.7.** The Procurement Committee reserves the right to add to, modify, supplement, change or terminate the Bidding, including the Bidding Schedule, at any time, for any reason whatsoever, without prior notice.
- 3.8.** Bidders must carefully examine the Request for Proposal, including the Bidding Procedures, all Supplemental Bid Bulletins, the Contract, and fully inform

themselves of all conditions and matters that could in any way affect their Bid, participation, or undertaking in the Bidding and the Contract. Any Bidder, by submitting its Bid, declares that it has read and understood each and every section and page of the Bidding Procedures, each Supplemental Bid Bulletin, the Contract, and the respective provisions, terms and conditions of the same; and accepts and agrees to be bound and fully abide by and comply with the Bidding Procedures, each Supplemental Bid Bulletin and the Contract.

- 3.9.** All documents which are required to be submitted under oath, acknowledged, and sworn to must be sworn to or acknowledged before a Notary Public or apostilled, as may be applicable
- 3.10.** Bidders shall be responsible for their own due diligence of the necessary technical requirements. Neither the Procurement Committee, PEMC nor its directors, officers, employees, advisors, consultants, nor agents make any representation or warranty concerning any matter affecting this transaction.
- 3.11.** In computing a period, the first day shall be excluded and the last day Included. Unless otherwise expressly specified in writing, all references to times and dates shall refer to Manila time. Should any of the dates fall on a day that is not a Business Day, the deadline shall be extended to the same time of the immediately succeeding Business Day.
- 3.12.** The Procurement Committee shall be entitled, in its sole discretion, without prejudice to any other rights or remedies of the Procurement Committee, to disqualify a Bidder from further participation in the Bidding Process in any of the following instances:
- a. such Bidder makes a material misrepresentation in any of the documents submitted to the Procurement Committee or any supporting documentation or otherwise, whether written or oral;
  - b. the Bid submitted by any such Bidder is in any material respect inconsistent with, is materially defective, or demonstrates a failure to comply with the Bidding Procedures;
  - c. such Bidder fails to promptly comply with reasonable requests of the Procurement Committee for further information or clarification in relation to documents, information or the Bid submitted by such Bidder;
  - d. a supervisor, receiver, administrator or liquidator, or other encumbrances takes possession of or is appointed over any distress, execution or other process is levied or enforced upon the whole or any part of the assets of such Bidder;
  - e. a court petition is presented or a meeting is convened for the purpose of considering the winding up, bankruptcy, or dissolution of such Bidder, or circumstances come into existence that would permit such a court petition to be presented;
  - f. such Bidder fails to submit all documents by the deadline.
  - g. such Bidder signifies its intention to withdraw or modify its Bid after the Bid Submission Deadline or actually withdraws or modifies its Bid;
  - h. such Bidder withdraws its bid during the Bid Validity Period;

- i. such Bidder submits a Bid with conditions or delivers a Bid Security that does not comply with the requirements on Bid Security;
- j. such Bidder breaches any of the conditions of the Bidding Procedures;
- k. such Bidder breaches the warranty against offering or paying commission or consideration to any officer or any official or employee of PEMC;
- l. from the day of the Bid Submission Deadline until the later of the Bid Validity Period or Effective Date, such Bidder breaches the warranty against conflict, dispute, or unsettled issue as provided herein;
- m. such Bidder breaches the warranty against compliance with Philippine law as provided herein;
- n. upon the occurrence of events or omissions that provide a ground for disqualification contained elsewhere in the Bidding Procedures;
- o. there is a material change in the information furnished by such Bidder with the Documentary Deliverables;
- p. there is a subsequent event that causes a material adverse change in the information furnished with the Documentary Deliverables;
- q. any other ground for disqualification of a Bid and/or a Bidder as provided for in the Bidding Procedures;
- r. Whenever an address is required, the full address must be given. A post office box number as an address is not allowed;
- s. All submissions to PEMC must be in the English language. The official language to be used in the Bidding, Bidding Procedures and the Contract, reports, communications, notices, and correspondences shall be English; or
- t. Should a Bidder or anyone on its behalf have offered or paid, directly or indirectly, any PEMC director, official or employee any consideration or commission for the Bidding; or should such Bidder or anyone on its behalf have exerted or utilized any corrupt or unlawful influence to secure or solicit the Bidding, the Contract or the appointment as External Auditor, for any consideration or commission, then such Bidder should not submit a Bid. Any Bid of any such Bidder shall not be received nor accepted for submission by the Procurement Committee and such Bidder shall be disqualified.

**3.13.** Each of the Interested Parties and Bidders, and the Highest Rated Responsive Bidder/Winning Bidder/Administrator, represents and warrants that:

- a. neither it nor anyone on its behalf has offered or paid, directly or indirectly, any PEMC director, official, employee any consideration or commission for the Bidding nor has it or anyone on its behalf exerted or utilized any corrupt or unlawful influence to secure or solicit the Bidding. Any violation of this warranty shall constitute a sufficient ground for the disqualification of the Bidder forfeiture of the Bid Security, without prejudice to the filing of civil and/or criminal action under Philippine Law, against the Interested Party, Bidder, Highest Rated Responsive Bidder/Winning Bidder and/or its representatives and the PEMC officials/ employees involved;
- b. from the day of the Bid Submission Deadline until the later of the expiration of the Bid Validity Period or Effective Date, neither it nor its parent company,

stockholders, subsidiaries, directors, or officers or any of their relatives within the fourth civil degree of consanguinity or affinity, legitimate or common law, has any dispute or unsettled issue with PEMC. Any violation of this warranty shall constitute a sufficient ground for the disqualification of the Bidder or termination of the Contract, forfeiture of the Bid Security, without prejudice to the filing of civil and/or criminal action under Philippine Law against the Bidder, Highest Rated Responsive Bidder/Winning Bidder, and/or its representatives;

- c. from the time of its execution of Undertaking on the Usage of Information (“Undertaking”), it shall at all times comply with Philippine Law. Any violation of this warranty shall constitute a sufficient ground for the disqualification of the Bidder and forfeiture of the Bid Security, without prejudice to the filing of civil and/or criminal action under Philippine Law against the Interested Party, Bidder, Highest Rated Responsive Bidder/Winning Bidder and/or its representatives;
- d. it shall indemnify PEMC and hold it harmless against any and all losses, claims, liabilities, damages and expenses arising out of or relating to its fault or gross negligence in the Bidding, including without limitation any claims by third parties for personal injuries, property damage, or consequential damages;
- e. it shall pay: (i) any and all costs, expenses, fees and taxes, including all documentary stamp taxes payable in connection with the execution, and any amendment or other modification (including any taxes applicable to any draws made upon the Performance Bond); and (ii) all costs, expenses, fees and taxes related to and arising from its exercise or performance of its obligations under the Bidding, Bidding Procedures, or the Contract; and
- f. it unconditionally and irrevocably waives any right it may have to seek and obtain a Writ of Injunction or prohibition or restraining order against the PEMC, and/or any third party to prevent or restrain the Bidding Process or any proceedings related thereto, the issuing bank, the holding of a bidding or any proceeding related thereto, the selection of the Highest Rated Responsive Bidder and Winning Bidder, the performance of the Contract and any draw on or forfeiture of the Bid Security. Such waiver shall, however, be without prejudice to the right of the Bidder to question the lawfulness of any disqualification or the rejection of their Bid by appropriate judicial- processes not involving the issuance of a writ of injunction or prohibition or restraining order.
- g. In case of conflict or discrepancy between the Bidding Procedures on the one hand, and a Bid on the other hand, the Bidding Procedures shall prevail.

**3.14.** Documents of which certified true copies are allowed to be submitted under the Bidding Procedures shall be certified by the entity issuing such document (e.g. Certificate of Registration certified by the SEC) provided that documents that are to be submitted in support of a Bidder's technical experience may be certified by the duly authorized regulatory agency of the entity concerned.

- 3.15.** PEMC and each of the Interested Parties, Bidders, and the Highest Rated Responsive Bidder/Winning Bidder agree that in the event that there is any dispute between them arising out of the Bidding Procedures or in the interpretation of any of the provisions thereof, they shall endeavor to resolve such dispute by good faith negotiations.
- 3.16.** PEMC shall not be liable to the Interested Party, Bidders, Highest Rated Responsive Bidder/Winning Bidder or any third party in contract, tort or otherwise for any loss or damage sustained in connection with the Contract, including without limitation any claims for loss of use, loss Income, lost profits, or consequential damages, except as provided for In the Contract executed by PEMC and the Highest Rated Responsive Bidder/Winning Bidder.
- 3.17.** All notices to and communications with the Procurement Committee pursuant to the Bidding Procedures shall be in writing and shall be sent to:

**MR. BIENVENIDO C. MENDOZA**  
Chairperson, Procurement Committee  
Philippine Electricity Market Corporation  
18th Floor, Robinsons Equitable Tower  
ADB Avenue, Ortigas Center  
Pasig City, Philippines 1600

- 3.18.** PEMC shall not be liable for any loss or damage arising out of any delay or inability by PEMC to perform its obligations under the Bidding, Bidding Procedures if the same is due to causes beyond its reasonable control, including without limitation to acts of God, accidents, acts of war, labor shortages or labor difficulties, strikes, civil disturbances, insurrections, riots, revolutions, acts of sabotage, governmental actions, delays or failures by the appropriate Government Body to issue necessary licenses, permits or authorizations, delays or accidents occurring in the course of transportation, unavailability of material or equipment, acts of or failures to act by third parties, and acts of or failures to act by the Contractor its contractors, suppliers; agents, or employees.
- 3.19.** The terms and conditions of the Undertaking are deemed incorporated herein by reference and made an integral part hereof. Each Bidder agrees that its officers, directors, employees, affiliates, outside auditors and legal, technical, financial advisors or other representatives are covered by the terms of the Undertaking of such Bidder.
- 3.20.** No PEMC official or employee shall directly or indirectly give, nor shall any Bidder be entitled to, any information regarding the Bidding Process or the other Bidders, other than what is contained in the Bidding Procedures, or disclosed in the Pre-bid Conference, Supplemental Bid Bulletins and in the official announcement.

- 3.21.** If any one or more of the provisions of the Bidding Procedures or any part of the Bidding Package is held to be invalid, illegal or unenforceable, the validity, legality, or enforceability of the remaining provisions will not be affected thereby and shall remain in full force and effect.

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#### 4. AUDIT SERVICE CONTRACT

**CONTRACT FOR EXTERNAL AUDIT SERVICES**  
***9<sup>th</sup> Audit of the Market Operations***  
***(26 June 2022 to 25 December 2024)***

This Contract for External Audit Services (the “Contract”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2025 at Pasig City, Philippines by and between:

**PHILIPPINE ELECTRICITY MARKET CORPORATION**, a corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at 18<sup>th</sup> Floor, Robinsons Equitable Tower, ADB Avenue, Ortigas Center, Pasig City, Philippines, represented herein by its President, Leonido J. Pulido III, and hereinafter referred to as “PEMC”

- and -

\_\_\_\_\_, a [*corporation/professional partnership*] duly organized and existing under the laws of \_\_\_\_\_ with principal office address at \_\_\_\_\_, represent herein by its [*designation, name of authorized representative*], and hereinafter referred to as “External Auditor”.

PEMC and External Auditor are hereinafter collectively referred to as “Parties” and singly as “Party”.

WITNESSETH: That -

WHEREAS, PEMC wishes to engage the External Auditor to provide audit services upon the terms and conditions hereinafter set forth for the purposes of the 9<sup>th</sup> Audit of the Market Operations (“Services”) for the period 26 June 2022 to 25 December 2024; and

WHEREAS, the External Auditor has represented itself to be qualified and to possess the knowledge, skill, experience, expertise, financial resources, manpower and network to render the Services;

WHEREAS, PEMC has accepted the offer of the External Auditor and the latter has agreed to undertake and perform the Services in accordance with the terms and conditions herein specified;

NOW THEREFORE, the Parties hereto hereby agree as follows:

## ARTICLE I Services

### 1.1. The Services

- a. The External Auditor shall perform the Services in accordance with the Terms of Reference (hereinafter called the "TOR") hereto attached as **Appendix "A"** and the agreements specified in **Appendix "B"** (hereafter, the "Services"):
  - i. with the standard of skill, care and diligence expected of a competent professional who regularly provides services of the same type as the Services;
  - ii. with the knowledge, skill and experience of a competent professional experienced in undertaking services of the same type as the Services;
  - iii. so that the Services and any reports to be provided for the Service are consistent with the international standard and best practices for their intended purpose ascertainable at the time they are provided; and
  - iv. in accordance with PEMC's directions through the PEM Audit Committee ("PAC"), and this Contract so long as it conforms to the applicable law, rule, regulation, or guidelines prescribed for the Services. The External Auditor recognizes that PEMC is relying on its professional skill, knowledge, judgement, and expertise in the execution of the Services.
- b. Any change, variation or modification of the Services including Contract Amount adjustments if any, shall be agreed upon in writing by the Parties.

### 1.2. Commencement and Completion

- a. The External Auditor shall commence the Services on Commencement Date as stated in the attached TOR and shall regularly, diligently and without unnecessary delay proceed with the execution of the Services in accordance with the TOR and this Contract, unless otherwise expressly ordered by written notice of PEMC. Subject to the provisions of this Contract, the External Auditor shall complete the Services by the Date of Completion as stated in the TOR. PEMC reserves the right to extend the Period of Completion of the Services for justifiable reasons and for such period as PEMC considers appropriate having regard to the overall purpose of the Services or the Project with no claim for additional charges, fees or damages by virtue of such extension. The External Auditor shall endeavor to prevent and/or mitigate the delay and shall do all that may be reasonably required by PEMC to assist with the assessment of the revised Period of Completion. The External Auditor shall notify PEMC in writing as soon as practicable after becoming aware of any matter or circumstance which may adversely affect the scope, timing or execution of the Services, detailing the matter or circumstance and its anticipated effect on the Services and recommendations for mitigating such adverse effects. When there is a showing that External Auditor performed its obligations under this clause, External Auditor shall be excused from the effect of such adverse matters or circumstance should PEMC fail or chose not to take notice of the same.

### 1.3. Execution of Services

- a. The External Auditor shall, in executing the Services:
  - i. promptly inform PEMC if any information or document provided to the External Auditor is inadequate to enable the External Auditor to properly perform the Services or contains any ambiguity or inaccuracy and in such circumstances, provide recommendations to PEMC as to how to deal with, or resolve the issues identified by the External Auditor so that the progress of the Services is not materially affected;
  - ii. regularly consult with PEMC regarding the execution of the Services;
  - iii. ensure that the key personnel nominated in Appendix B are engaged in the execution of the Services;
  - iv. make no material alteration or addition to or omission from the Services or the TOR without PEMC's written consent; and
  - v. do all things necessary and incidental for the proper execution of the External Auditor's obligations and responsibilities pursuant to this Contract.
- b. Any comment, approval, consent or direction by PEMC shall not relieve the External Auditor from, or in any way diminish or affect, the External Auditor's obligations under this Contract.

### 1.4. Changes

- a. The External Auditor may vary the order, timing or the scope of the Services as required by PEMC, but shall not be entitled to claim additional payment for any such changes in the Scope of Services or the Period of Completion of the Project unless otherwise priorly approved by PEMC in writing.

### 1.5. Certificates to be issued.

- a. Upon completion of Services, the External Auditor shall submit the required report which shall then be reviewed by the PEMC through PAC. Thereafter, PEMC shall after review and finding the same be satisfactory in accordance with the terms of this Contract, issue the following documents:
  - i. A Certificate of Acceptance for each Service actually completed by the External Auditor for the purpose of Milestone Payment,;
  - ii. A Certificate of Completion shall be issued upon completion of Services to show that all the tests are performed, all reports are submitted and each of the deliverable stated in the TOR had been completed.

## ARTICLE II Personnel

### 2.1. Personnel

- a. The Services shall be carried out by the personnel (hereinafter called the "Personnel" or collectively, the "Audit Team") as listed in **Appendix "C"** hereof for the respective periods of time indicated therein. The External Auditor may, with the prior written approval of PEMC, make minor adjustments in such periods as may be appropriate to ensure the efficient performance of the Services, provided that such adjustments will not cause payments to be made under the Contract to exceed the cost estimates referred to in Section 3.1 herein.
  - i. Except as PEMC may otherwise agree in writing, no changes shall be made in the Personnel. If for any reason beyond the reasonable control of the External Auditor it becomes necessary to replace any of the Personnel, the External Auditor shall forthwith provide as a replacement, a person of equivalent or better qualifications subject to prior written acceptance by PEMC.
  - ii. In the event of unsatisfactory work performance attributable to any of the Personnel, or conflict of interest, as described in Section 3, PEMC may recommend to the External Auditor appropriate means to rectify such results including replacement of Personnel or correcting any deficiencies in the work performance, at no additional cost to PEMC.
  - iii. The External Auditor agrees to provide sufficient information with regard to the Personnel listed in the Appendix B hereof; to secure authorization for PEMC to conduct an appropriate background investigation of the Personnel; and to secure authorization for PEMC to conduct a credit check on all Personnel.

The External Auditor acknowledges that PEMC's obligations under this Contract are contingent upon the successful completion of background investigations of the Personnel. Should PEMC determine, in its sole discretion that the results of any background investigation are deemed disadvantageous to PEMC, the External Auditor may recommend alternative Personnel, provided that the alternative Personnel are acceptable to PEMC and meet the standards set forth in **Appendix "A."** PEMC shall have the right to immediately terminate this contract and PEMC shall have no further obligations hereunder if the External Auditor fails to provide Personnel who are acceptable to PEMC and meet the standards set forth in Appendix "A."

### 2.2. Project Manager

The External Auditor shall ensure that at all times during the audit implementation, a resident Audit Team Leader, acceptable to PEMC shall take charge of the operations of the Audit Team. The Audit Team Leader shall be responsible for liaison with PEMC.

### ARTICLE III

#### Payments to the External Auditor

##### 3.1. Contract Amount

- a. The total cost of services shall be PHP/USD\_\_\_\_\_, and shall hereafter be referred to as the “Contract Amount”. In accordance with Section 3.3. hereof, the Schedule of Payment is hereto attached as **Appendix “D”**.
- b. The Contract Amount shall be paid in the manner set forth in Section 3.3 less all applicable taxes which PEMC may be obligated to withhold under Philippine law.

##### 3.2. Currency of Payment

Except as otherwise agreed between PEMC and the External Auditor, all payments under Section 3.3 will be made in Philippine Pesos/ US Dollars.

##### 3.3. Mode of Billing and Payment

Billing and payments in respect of the Services shall be made as follows:

PEMC shall cause to pay the External Auditor payments of:

- i. 20% of the Contract Amount within ten (10) Philippine business days after the submission and PEMC’s acceptance of the Inception Report;
- ii. 25% of the Contract Amount within ten (10) Philippine business days after the submission and PEMC’s acceptance of the Third Progress Report;
- iii. 25% of the Contract Amount within ten (10) Philippine business days after the submission and PEMC’s acceptance of the Last Progress Report; and
- iv. 30% of the Contract Amount within fifteen (15) Philippine business days after the submission and PEMC’s acceptance of the Final Reports, Software Certificates and all remaining Deliverables, as identified in the TOR.

All applicable taxes, duties, fees, levies, out-of-pocket expenses, bank charges, and other charges shall be borne by the External Auditor.

- b. Notwithstanding the foregoing clause, no payment shall be due and demandable against PEMC absent the timely endorsement of the External Auditor of the Performance Security in accordance with Section 5.3 hereof.
- c. Final payment under this Section shall be made only after the deliverables identified in the TOR (Appendix “A”) and issuance of a Certificate of Completion.
- d. The External Auditor shall fully assume responsibility for, and shall hold PEMC free from, payment of any tax including withholding tax or tax on corporate income that may be imposed. External Auditor shall likewise assume responsibility and hold PEMC free from payment of any personal income tax and any contribution to

External Auditor's employees and/or agents which may be required at any time under any laws in force in the Republic of the Philippines, or any other country, which may become due by reason of the performance of Services under this Contract. External Auditor, shall execute and deliver such requirements of the said laws as may be necessary and as requested by PEMC, including the making of payment of any interest and/or penalties related to or arising from such taxes and/or contributions.

- e. All payments under this Contract shall be made according to any of the following methods:

- i. Payments through Check:

Payable to : \_\_\_\_\_

- ii. Payments through Bank Transfer:

Account Name : \_\_\_\_\_  
Account Number : \_\_\_\_\_  
Bank Name : \_\_\_\_\_  
Bank Address/Branch : \_\_\_\_\_

### 3.4. Additional Work

If, in the opinion of PEMC, it is necessary to carry out any work outside of the TOR, in addition to the Services, the External Auditor shall carry out such additional work under such terms and conditions mutually agreed upon in writing by the Parties, provided the necessary Change Order (**Appendix "E"**) had been duly signed and approved by the Parties.

## ARTICLE IV Undertakings of PEMC

### 4. 4.1. Services and Facilities

If necessary, PEMC shall make available to the External Auditor, for the purposes of the Services and free of any charge, support services and facilities, such as office space (subject to availability), internet access, telephone land line (local calls only), and other necessary facilities within the premises of PEMC.

## ARTICLE V Undertakings of the External Auditor

### 5. 5.1. General Standard of Performance by the External Auditor

- a. The External Auditor shall carry out the Services with due diligence and efficiency, and shall exercise such skill in the performance of the Services consistent with recognized professional standards.
- b. The External Auditor shall assure PEMC that it has obtained work permits and such other documents to enable the Personnel to perform the Services.
- c. The External Auditor shall act at all times so as to protect the interest of PEMC.

## 5.2. External Auditor Undertaking and Warranties

- a. The External Auditor shall promptly pay its personnel who are assigned to perform the contracted work under this Contract all wages, salaries and compensation due the latter and shall furnish such other benefits, premium and protection to them in accordance with the provisions of the Labor Code and other applicable laws, decrees, rules and regulations and orders promulgated by competent authorities, including, but not limited to the Service Incentive Leave, rest day, overtime pay, 13th month pay, as well as separation pay and retirement benefits whenever applicable.
- b. The External Auditor shall assign such number of its personnel, with prior agreement with PEMC, as would be sufficient to fully and effectively render the Services herein undertaken. Such employees of the External Auditor shall be properly attired and provided by the latter with the corresponding uniforms and identification cards. In this respect, the External Auditor warrants that it has properly trained and thoroughly screened its employees prior to their employment and that they have been required to present favorable NBI and police clearances and medical certificates and such other relevant clearances, permits and certifications, attesting to their probity and physical fitness for the work involved;
- c. The External Auditor's personnel who shall be assigned to perform the Services under this Contract shall be registered with SSS, Philhealth and Pag-ibig and other appropriate government agencies as required by the Labor Code and other applicable laws, decrees, rules and regulations and orders promulgated by competent authorities, and whose premium contributions are being paid regularly;
- d. The External Auditor undertakes to ensure that its personnel are guaranteed safe and healthful working conditions, security of tenure, the right to self-organization, collective bargaining and peaceful concerted activities, pursuant to the Philippine Constitution and Labor Laws; and
- e. In the event of change of ownership, assignment, attachment of assets, insolvency or receivership of the External Auditor, PEMC shall continue to be entitled to the contracted work hereunder, and may avail of any remedy under the law to ensure continuity in rendition of the contracted work. In addition, PEMC shall have the right

to pursue and exhaust all means provided by law to ensure that its operations covered by the External Auditor's Services will not be impaired or prejudiced.

### 5.3. Performance Security

- a. To guarantee the faithful performance by the External Auditor of its obligations under this Contract, it shall post a performance security within five (5) business days from the signing of this Contract. Without prejudice to Section 5.8, the proceeds of the performance security shall be forfeited in case of the External Auditor's failure to faithfully comply with its obligations under this Contract.
- b. At the External Auditor's option, the performance security is to be issued in the following amounts and in any of the following form:
  - i. Cash in [insert currency] in the amount of \_\_\_\_\_; or
  - ii. Certified check, cashier's check, manager's check, bank draft or irrevocable letter of credit issued by a reputable bank licensed to do business in the Philippines and acceptable to PEMC in the amount of \_\_\_\_\_.
- c. The performance security shall be discharged by PEMC free of interest and returned to the External Auditor not later than fifteen (15) Philippine business days following the date of completion of the External Auditor's performance obligations and issuance of a Certificate of Completion to that effect by PEMC under this Contract.

### 5.4. Information

The External Auditor shall furnish PEMC such information relating to the Services as PEMC may from time to time reasonably request.

### 5.5. Assignments; Sub-Contractors

- a. Except with the prior written approval of PEMC, the External Auditor shall not assign or transfer the Contract or any part thereof nor engage any independent consultant or sub-contractor to perform any part of the Services without the prior written approval of PEMC.
- b. The approval by PEMC to the assignment of any part of the Contract or to the engagement by the External Auditor of independent consultants or sub-contractors to perform any part of the Services shall not relieve the External Auditor of its obligations under the Contract.
- c. In the event that any such independent consultant or sub-contractor is found by PEMC to be incompetent in discharging assigned duties, PEMC may request the External Auditor forthwith either to provide as a replacement, a consultant or sub-



contractor with qualifications and experience acceptable to PEMC or to resume the performance of the Services itself.

## 5.6. Confidentiality

- a. *Definition.* As used herein, "Confidential Information" shall refer to all information, whether oral, visual or in electronic format, supplied by or in behalf of PEMC, or any of its representatives in connection with the Project, including without limitation, any information relating to the Project or the System, together with any analyses, compilations, notes, summaries, studies or other documents or materials prepared, developed, derived, discovered or collated by or on behalf of the External Auditor or its representatives which contain or otherwise reflect such information.
- b. Without limiting the generality of the foregoing, Confidential Information shall further include information provided by or in behalf of PEMC or any of its representative to External Auditor that:
  - i. is marked confidential;
  - ii. if disclosed orally or not marked confidential, is identified prior to its disclosure as confidential information, and is confirmed confidential information in a signed writing by PEMC promptly thereafter; or
  - iii. contains market participant lists, information and account information such as but not limited to information regarding business planning and business operations and administrative, financial, or marketing activities; provided:
    - 1) PEMC or IEMOP treats such information as confidential; or
    - 2) such information can be reasonably considered as confidential information based upon the nature of the information and the business of PEMC or IEMOP; or
    - 3) without designation or limitation, is related to the Project.
- c. For avoidance of doubt, Confidential Information shall include this Contract and the fact that discussions or negotiations regarding the Project are taking or have taken place between the Parties.
- d. *Non-Disclosure.* In consideration of PEMC's disclosure of Confidential Information to the External Auditor, the External Auditor agrees that it shall:
  - (a) treat all Confidential Information as strictly confidential;
  - (b) not disclose or use any Confidential Information except for the sole purpose of performing the Services and not to gain commercial advantage over PEMC or IEMOP;
  - (c) protect all Confidential Information, whether in storage or in use, with the same degree of care as the External Auditor uses to protect its own

Confidential Information against public disclosure, but in no case with less than reasonable care and shall not take copies (whether electronic or otherwise) of any Confidential Information;

- (d) disclose Confidential Information only to such partners/principals, professional advisers, officers, directors, employees, agents and attorneys (collectively "Representatives") of the External Auditor who *need-to-know* such Confidential Information, provided such Representatives are informed of the confidential nature of such Confidential Information and the terms of this Contract prior to disclosure and provided further that the External Auditor shall be responsible in the event of such Representative's breach of this Contract as if the External Auditor had committed such breach;
  - (e) not photocopy, reproduce, or electronically multiply, without PEMC's prior written consent, except when disclosure is made to the External Auditor's Representatives as defined herein or when such disclosure is required as provided herein;
  - (f) not reverse engineer any such Confidential Information; and
  - (g) make a disclosure as may be necessary to comply with the applicable law, writ, process or order of any competent court or tribunal or any order, request or requirement of any duly mandated regulatory authority provided that the External Auditor, to the extent legally permissible, first notify PEMC of such need and shall ensure to furnish only the portion of the Confidential Information that the External Auditor is legally required to disclose and will exercise reasonable efforts to obtain reasonable assurances that the Confidential Information will be accorded protection in accordance with the terms of this Contract.
- e. Notwithstanding the foregoing, either Party is not required to keep Confidential Information confidential:
- (a) where disclosure is expressly permitted under this Contract or by written agreement of the Parties;
  - (b) where Confidential Information is already in the possession of the recipient (other than through a breach of any right of the disclosing party) at the time of disclosure as shown by the recipient's written records in existence at the time of disclosure;
  - (c) where Confidential Information is lawfully obtained by the recipient from a third party without breach of this Contract;
  - (d) where Confidential Information is independently developed by the recipient without breach of this Contract or

- (e) where Confidential Information has entered the public domain other than as a result of a breach of this Contract.

The External Auditor will notify PEMC in writing promptly upon the occurrence of any unauthorized release of Confidential Information or breach of this Contract of which it is aware.

f. External Auditor can disclose PEMC's Confidential Information:

- (a) to any Assisting Party;
- (b) to External Auditor's insurers, legal or other professional advisers, financiers, and auditors; or
- (c) for internal or external quality assurance and risk management purposes, including but not limited to the identification of potential conflicts of interest or compliance with independence requirements; or
- (d) to support the maintenance of quality and professional standards in the delivery of services.

Any disclosure to Assisting Parties must be with prior written approval of PEMC. PEMC highly values the confidentiality of its information hence, any disclosure to 3<sup>rd</sup> parties must be with prior disclosure which includes the purposes of the disclosure and specific names of the parties to whom it shall be disclosed.

- g. *Return.* The External Auditor shall, at its own expense and without need of notice, deliver to PEMC within ten (10) days following the termination or expiration of this Contract, all documents and all other materials, in whatever form, containing or reflecting any Confidential Information, together with any copies thereof. The External Auditor shall, upon the request of PEMC, destroy such Confidential Information and provide PEMC with a sworn statement attesting to such destruction. The External Auditor acknowledges that neither the return of any Confidential Information nor the destruction of the same will release the External Auditor from its obligations under this Contract.
- h. *Allowable Retention.* Notwithstanding the foregoing, and except Highly Sensitive Information as defined hereafter, the External Auditor shall be allowed to retain such Confidential Information in line with the period provided in the foregoing section, as may be required by any applicable law, rule, or regulation, or any judgment, writ, process, or order of any competent court or tribunal, or any order, request, or requirement of any duly mandated regulatory authority for purposes of complying with any requirement of audit, provided that the External Auditor shall

ensure that such Confidential Information shall not be disclosed to third parties as provided in this Contract.

- i. *Highly Sensitive Information.* All market information containing financial, settlement, account information, prudential security information or customer data are considered Highly Sensitive Information and shall at all times be held confidential. All other documents shall be held confidential for a period of ten (10) years after the expiration of the term hereof.

#### 5.7. Information Security and Data Privacy

- a. The External Auditor acknowledges and agrees that, in the course of providing the Services, it may receive or have access to Personal Information of PEMC's directors, officers, employees, market participants, governance committee members and authorized representatives. As used in this Contract, "Personal Information" shall have the meaning ascribed to it under Republic Act No. 10173, and its implementing rules and regulations, as may be amended from time to time (the "Data Privacy Act").
- b. The External Auditor represents and warrants that its collection, access, use, storage, disposal, and disclosure of any Personal Information shall at all times comply with the Data Privacy Act and all other applicable data privacy and data protection laws and regulations. The External Auditor shall also comply with the terms and conditions set forth in this Contract in its collection, receipt, transmission, storage, disposal, use, and disclosure of Personal Information.
- c. In the event that the External Auditor will act as a Personal Information Processor, the External Auditor shall:
  - i. Process the personal data, including transfers of personal data to another country or an international organization, only upon the documented instructions of PEMC;
  - ii. Ensure that an obligation of confidentiality is imposed on persons authorized to process the personal data;
  - iii. Implement appropriate security measures and comply with the Data Privacy Act and other relevant issuances of the National Privacy Commission ("NPC");
  - iv. Not engage another Personal Information Processor without prior instruction from PEMC: Provided, that for any such arrangement authorized by PEMC, the External Auditor shall ensure that the same obligations for data protection under this Contract are implemented, taking into account the nature of the processing;
  - v. Assist PEMC, by appropriate technical and organizational measures and to the extent possible, fulfil the obligation to respond to requests by data subjects relative to the exercise of their rights;
  - vi. Assist PEMC in ensuring compliance with the Data Privacy Act, other relevant laws, and other issuances of the NPC, taking into account the nature of processing and the information available to the External Auditor;

- vii. At the option of PEMC, delete or return all personal data to PEMC after the end of the provision of services relating to the processing: Provided, that this shall include deleting existing copies unless storage is authorized by the Data Privacy Act or other relevant laws;
- viii. Make available to PEMC all information necessary to demonstrate compliance with the obligations laid down in the Data Privacy Act, and allow for and contribute to audits, including inspections, conducted by PEMC or another auditor mandated by the latter; and
- ix. Immediately inform PEMC if, in its opinion, an instruction infringes the Data Privacy Act, or any other applicable issuance of the NPC.

#### 5.8. Independent Contractor

Nothing contained herein shall be construed as establishing or creating between PEMC and the External Auditor and/or any of the Personnel or the External Auditor's agents, assignees, contractors or sub-contractors any relationship other than that of an independent contractor.

#### 5.9. Project Supervision

PEMC shall designate representative/s to act on its behalf in overseeing the performance of the Services. In so doing, the External Auditor commits to at all times assist said designated representative/s in gaining familiarization in the audit and its progress during the period of audit for the Project.

#### 5.10. Free and Harmless Clause.

- a. In case of breach by the External Auditor of any of his obligations under this Contract, PEMC shall have the right to demand the performance of the obligations or correction or rectification of the breach within thirty (30) calendar days from notice thereof. Failure of the External Auditor to perform any of his obligations or correct a breach within the prescribed period to the satisfaction of PEMC shall be a cause for the immediate termination of this Contract without the need of any further notice.
- b. Further, PEMC shall have the right to recover whatever damages that it may have suffered by reason of or in connection with such non-performance or breach by the External Auditor.
- c. The External Auditor hereby agrees to defend, protect, indemnify and PEMC, its directors, officers, employees and agents, if any, free and harmless from any and all claims, damages, losses, expenses and/or any claim or liability of whatever nature and kind, whether by law or equity that PEMC may incur, pay or be liable for, arising from, or in connection with the performance of his obligations under this Contract.

- d. As such, suggest to change the heading to Breach, damages and Indemnification
- e. The liability of the External Auditor under this Contract shall be capped at a maximum aggregated amount of 150 % of the Contract Amount.
- f. Each party shall have the obligation to prove, minimize and mitigate all losses claimed under this Contract.

#### 5.11. Rights in Work Product

- a. All reports, data, documents and work product, created, used or produced by the External Auditor in performing the Services (hereafter, the "Work Product") shall be the sole property of PEMC or the Auditees, as the case may be.
- b. To the extent that such Work Product includes proprietary information, knowledge, methodologies, tools, models, procedures, documentation, know-how, processes or other pre-existing materials, of the External Auditor, or modifications and improvements made thereto, the External Auditor shall retain ownership of materials but grants PEMC a perpetual, royalty-free, non-exclusive right and license to use such materials in connection with PEMC's use of such Work Product, and such grant expressly includes PEMC's right to release such Work Product.
- c. To the extent that such Work Product includes third party materials, software or intellectual property that PEMC must license separately, the External Auditor shall inform PEMC of such license requirement and, if requested by PEMC, assist PEMC in obtaining the appropriate license. The External Auditor warrants that all systems and equipment used for the Services, and all of the works created for the Services do not violate or infringe on any intellectual property right or any third party claim. The External Auditor shall indemnify PEMC from and against any and all claims that may be asserted against PEMC by reason of any infringement or alleged infringement of intellectual property rights in carrying out the Services.
- d. Subject to the Confidentiality clause (Section 5.6), this provision shall not be construed to limit the External Auditor's right to use for any purpose the residuals resulting from the performance of the Services for PEMC. As used herein, "residuals" shall mean technical information in non-tangible form, which may be developed or retained by persons who have provided Services or have had access to PEMC's or Auditees information or systems, including ideas, concepts, know-how, and techniques contained therein.

#### 5.12. Insurance

PEMC assumes no responsibility in respect of any life, health, accident, travel, and other insurance which may be necessary or desirable for the Personnel of or sub-contractors

and specialists associated with the External Auditor for the purposes of the Services, nor for any members of any family of any such person.

#### 5.13. Notice of Delay

In the event that the External Auditor encounters delay in obtaining the required services or facilities set forth in Section 4.1 for the conduct of the Services, the External Auditor shall promptly notify the PEMC of such delay and may request an appropriate extension of time for completion of the Services provided External Auditor did not contribute nor the cause of such delay.

#### 5.14. Contractual Ethics

The External Auditor guarantees that it has not given any fee, gratuity, rebate, gifts commission, or other payment, other than those shown in the proposal or the contract, to PEMC in connection with the selection process or in the contract execution.

### ARTICLE VI **General Provisions**

#### 6.1. Suspension

- a. PEMC shall, by written notice of suspension to the External Auditor, suspend all payments should the External Auditor fail to perform any of its obligations under this Contract, provided that such notice of suspension:
  - i. shall specify the nature of the failure; and
  - ii. shall request the External Auditor to remedy such failure within a period not exceeding five (5) calendar days after receipt by the External Auditor of such notice of suspension.

#### 6.2. Termination of the Contract by PEMC

- a. PEMC shall terminate this Contract fifteen (15) calendar days after the External Auditor's receipt of the written notice of termination, due to any of the following conditions:
  - i. The External Auditor fails to deliver or perform the Deliverables within the period(s) specified in the Contract, or within any extension thereof granted by PEMC pursuant to a written request made by the External Auditor prior to the delay;

- ii. After obligations under this Contract have been suspended as a result of force majeure in accordance with Section 6.6, the External Auditor is unable to deliver or perform a material portion of the Deliverables for a period of not less than five (5) calendar days after the External Auditor's receipt of the notice from PEMC stating that the circumstance of force majeure is deemed to have ceased;
  - iii. If the External Auditor is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction; in which event, termination will be without compensation to the External Auditor, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to PEMC and/or the External Auditor;
  - iv. The External Auditor fails to perform any other obligation under the Contract; or
  - v. In case the External Auditor breaches any of its obligations under the Contract
- b. Notwithstanding the above, PEMC may immediately terminate this engagement:
- i. if PEMC determines that the External Auditor has engaged in an unethical behavior, or corrupt or fraudulent practices;
  - ii. if in PEMC's opinion, whether for reasons of health or otherwise, the External Auditor is unable to perform or complete the Services adequately; or
  - iii. if PEMC determines that the Services to date are so deficient as to demonstrate that the Services cannot be satisfactorily performed.
- c. The determination of the conditions as provided in this Section 6.2 shall be left to the sole discretion of PEMC and shall be binding on the External Auditor.

#### 6.3. Termination of the Contract by the External Auditor

The External Auditor shall, with supporting documents, promptly notify PEMC in writing of any situation or of the occurrence of any event beyond the reasonable control of the External Auditor which makes it impossible for the External Auditor to carry out its obligations hereunder. Upon confirmation in writing by PEMC of the existence of any such situation or event and the termination of the engagement, or upon failure of PEMC to respond to such notice within fifteen (15) calendar days from receipt thereof, the External Auditor shall be relieved from performing the Services and the engagement shall be terminated; Provided that the Performance Security posted by the External Auditor shall be forfeited in favor of PEMC.

#### 6.4. Effect of Expiration or Termination

- a. Upon the expiration of this Contract with reference to Section 7.1 or termination of this Contract with reference to Sections 6.2 and 6.3:



- i. Each party will be released from all obligations to the other arising after the date of expiration or termination, except that expiration or termination of this Contract will not:
  - a) Relieve the External Auditor of its obligations under Sections 5.5, 5.6, 5.7, 5.8, 6.3, 6.5 and 6.7;
  - b) Relieve all obligations as may have accrued on the date of expiration or termination; and
  - c) Relieve the External Auditor or PEMC from any liability arising from any breach of this Contract.
- ii. The PEMC shall promptly pay the External Auditor for all deliverables submitted and accepted in accordance with Section 3.3 up to the date of termination or expiration of the Contract.

#### 6.5. Settlement of Dispute

Any dispute or difference arising out of the Contract other than grounds provided in Sections 6.2 and 6.3, which cannot be amicably settled between the parties within thirty (30) days after written notice has been sent by any party to the other party, shall be finally settled by arbitration under the Philippine Arbitration Law. The arbitration shall be conducted in English and shall take place in the Philippines. The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy.

#### 6.6. Force Majeure

- a. Should the performance by either party of its obligations under this Contract be prevented or materially and adversely affected by a force majeure event, the affected party shall forthwith give notice in writing to the other after such occurrence and shall endeavor to continue to perform its obligations as far as reasonably practicable. The affected party shall provide the other with the details of the force majeure event and the length of the anticipated delay within five (5) days thereafter. If the External Auditor is the party providing notice, then if it is reasonably able to do so having regard to the force majeure event, the External Auditor shall include details of any proposals or any reasonable alternative means for performance of the Contract with the objective of completing the Services and mitigating any increased costs to PEMC. The obligations of the parties shall be suspended for as long as the inability continues.
- b. Neither party shall be liable to the other party for loss or damage sustained by such other party arising from any event referred to in Section 6.6.a or delays arising from such event.

- c. The term “force majeure”, as employed herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, blockades, insurrection, epidemics, earthquakes, and any other similar events, not within the control of either party and which by the exercise of due diligence neither party is able to overcome.

#### 6.7. Non-Solicitation

Both Parties acknowledge the highly sensitive commercial role performed by PEMC in the Philippine electricity market and the unique nature of the Services performed by the External Auditor such that the External Auditor and PEMC agree that neither party will solicit the services of the other party's employees, consultants, suppliers or customers during the term of this Contract and for twelve (12) months thereafter without the prior written consent of the other party.

#### 6.8. Governing Law; Severability

This Contract shall be governed by and construed in accordance with the laws of the Republic of the Philippines. If any provision of this Contract is for any reason found to be unenforceable, it shall be modified to reflect the fullest enforceable intent of the parties, or if such modification is not possible, it shall be severed, and the remainder of this Contract will continue in full force and effect.

#### 6.9. Complete Understanding; Modification

This Contract and its Appendices constitute the complete and exclusive understanding and agreement of the parties and supersedes all prior understandings and agreements, whether written or oral, with respect to the subject matter hereof. If there is any inconsistency between this Contract and its Appendices, the order of precedence is as follows: (a) this Contract, (b) Terms of Reference, (c) other appendices to this Contract. Any waiver, modification or amendment of any provision of this Contract will be effective only if in writing and signed by the parties hereto.

#### 6.10. Non-Waiver

The failure of either party to insist upon the performance of any of the terms and conditions of this Contract shall not be interpreted as a waiver of such terms and conditions. No waiver of any breach of the terms and conditions hereof shall be construed as a waiver of any other or subsequent breach, and this Contract, in its entirety, shall continue to be in full force and effect.

#### 6.11. Conflict of Interest

The External Auditor shall notify PEMC in writing of any interest in any other project if it conflicts with the performance of the Services. The External Auditor shall not undertake any services or accept any employment, interest or contribution which could give rise to a conflict of interest except with prior written approval of PEMC.

## ARTICLE VII Miscellaneous

### 7.1. Expiration

The Contract shall become effective upon the date specified in Section 1.2 and shall be in full force until the Services and all payments therefore have been completed and at such time the parties hereto shall be mutually released from all obligation hereunder.

### 7.2. Authorized Representative

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract, may be taken or executed on behalf of the External Auditor by \_\_\_\_\_ and on behalf of the PEMC by its President, Leonido J. Pulido III.

### 7.3. Notice or Requests

Any notice or request required or permitted to be given or made under this Contract shall be in writing. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, or electronic mail to the party to which it is required to be given and made at such party's address specified below or at such other address as either party may specify in writing.

#### a. For PEMC:

Name: ELVIN HAYES E. NIDEA  
Designation: President  
Address: 18F Robinsons Equitable Tower ADB Avenue Ortigas Center  
Pasig City  
E-Mail: liolayta@wesm.ph  
Telefax:

#### b. For the External Auditor:

Name:  
Designation:  
Address:  
E-Mail:  
Telefax:

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

By:

Philippine Electricity Market Corporation  
(PEMC)

By: \_\_\_\_\_

Designation: \_\_\_\_\_

Address: \_\_\_\_\_

By:

Company XXX  
(External Auditor)

By: \_\_\_\_\_

Designation: \_\_\_\_\_

Address: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

\_\_\_\_\_

**ACKNOWLEDGEMENT**  
**(for EXTERNAL AUDITOR)**

REPUBLIC OF THE PHILIPPINES    ) S.S  
PASIG CITY                                )

BEFORE ME, a Notary Public for and in City of \_\_\_\_\_, this  
\_\_\_\_\_, personally appeared the following:

Name	Government Issued Identification	Date/Place Issued
------	----------------------------------	-------------------

known to me and to me known to be the same persons who executed the foregoing  
CONTRACT FOR EXTERNAL AUDIT SERVICES and who acknowledged to me that the  
same is their own free and voluntary act and deed as well as the corporation which they  
respectively represent.

This instrument which contains \_\_\_\_\_ (\_\_\_\_) pages including the page on which this  
Acknowledgement is written has been duly signed by the parties and their witnesses on  
each and every page hereof in the manner provided for by law.

**WITNESS MY HAND AND NOTARIAL SEAL** on the date and at the place first  
above written.

NOTARY PUBLIC

Doc. No.: \_\_\_\_\_;  
Page No.: \_\_\_\_\_;  
Book No.: \_\_\_\_\_;  
Series of 2023

## ACKNOWLEDGEMENT

(for PEMC)

REPUBLIC OF THE PHILIPPINES ) S.S  
\_\_\_\_\_ City )

BEFORE ME, a Notary Public for and in City of \_\_\_\_\_, this  
\_\_\_\_\_, personally appeared the following:

Name	Government Issued Identification	Date/Place Issued
------	----------------------------------	-------------------

known to me and to me known to be the same persons who executed the foregoing CONTRACT FOR EXTERNAL AUDIT SERVICES and who acknowledged to me that the same is their own free and voluntary act and deed as well as the corporation which they respectively represent.

This instrument which contains \_\_\_\_\_ (\_\_\_\_) pages including the page on which this Acknowledgement is written has been duly signed by the parties and their witnesses on each and every page hereof in the manner provided for by law.

**WITNESS MY HAND AND NOTARIAL SEAL** on the date and at the place first above written.

NOTARY PUBLIC

Doc. No.: \_\_\_\_\_;  
Page No.: \_\_\_\_\_;  
Book No.: \_\_\_\_\_;  
Series of 2023

Contract Appendices:

1. Appendix A – Terms of Reference (TOR)
2. Appendix B - Agreements During the Negotiation Meetings
3. Appendix C – Audit Team Composition
4. Appendix D – Schedule of Payment

## **ANNEX A**

### **TERMS OF REFERENCE**

**[See TOR Attachment]**



**ANNEX B**  
**Checklist and Labelling Guidelines for Submission of Bid**

Soft copies of the bid documents in encrypted portable document format (pdf) must be submitted through a secured file transfer facility (SFTP) in which account credentials will be provided by PEMC.

The password for the encrypted soft copies should only be provided during the opening of each bid.

MR. LEONAR I. OLAYTA  
Procurement Specialist,  
Information System and Technology  
Department (ISTD), PEMC  
Email Address: [liolayta@wesm.ph](mailto:liolayta@wesm.ph)

Bidding documents must be submitted according to the following:

TECHNICAL BID	FINANCIAL BID
<ul style="list-style-type: none"><li><input type="checkbox"/> Index of Document Submissions ("Schedule 9a")</li><li><input type="checkbox"/> Bidder's Registry of Information ("Schedule 1")<ul style="list-style-type: none"><li><input type="checkbox"/> Attachments/Annexes to Schedule 1 of Bidder</li><li><input type="checkbox"/> Attachments/Annexes to Schedule 1 for Bidder's Technical Partner/JV</li></ul></li><li><input type="checkbox"/> Technical Proposal Submission Form (Schedule 5)</li><li><input type="checkbox"/> Approach, Methodology and Work Program</li><li><input type="checkbox"/> Audit Team Composition Forms</li><li><input type="checkbox"/> Curriculum Vitae's</li><li><input type="checkbox"/> Work Program Form (Gantt Chart)</li><li><input type="checkbox"/> Comments and Clarifications on the Template Contract for Services</li></ul>	<ul style="list-style-type: none"><li><input type="checkbox"/> Index of Document Submissions ("Schedule 9b")</li><li><input type="checkbox"/> Financial Proposal Submission Form (Schedule 6)</li><li><input type="checkbox"/> Milestone Payment Schedule</li><li><input type="checkbox"/> Bid Security (use the form as may be applicable in "Schedule 7 or 8")</li></ul>