

6.3 Agreement for Interconnection and Parallel Operation of Generation

This Interconnection Agreement (“Agreement”) is made and entered into this ____ day of _____, 20 __, by and between:

 (“Company”), a
 corporation duly registered under Philippine laws, with office address at
 _____;

and

 (“Generator”),
 a _____ [specify whether corporation,
 cooperative, or other], with postal address at _____;

each hereinafter sometimes referred to individually as “Party” or both referred to collectively as the “Parties”. In consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. **Scope of Agreement** -- This Agreement is applicable to conditions under which the Company and the Generator agree that one or more generating facility or facilities may be interconnected to the Company’s utility system, as described in Exhibit A.

2. **Establishment of Point(s) of Interconnection** -- Company and Generator agree to interconnect their Facility or Facilities at the locations specified in this Agreement, in accordance with Energy Regulatory Commission’s Open Access Distribution Service Rules (“OADS Rules”) relating to Interconnection of Generation and _____ relating to Technical requirements for Interconnection and Parallel Operation of Generation, _____ (state reference for these rules) (the “Rules”) or any successor rule addressing generation and as described in the attached Exhibit A (the “Point(s) of Interconnection”).

3. **Responsibilities of Company and Generator** -- Each Party will, at its own cost and expense, operate, maintain, repair, and inspect, and shall be fully responsible for, Facility or Facilities which it now or hereafter may own unless otherwise specified on Exhibit A. Generator shall conduct operations of its facility(s) in compliance with all aspects of the Rules, and Company shall conduct operations on its utility system in compliance with all aspects of the Rules, or as further described and mutually agreed to in the applicable Facility Schedule. Maintenance of Facilities or interconnection facilities shall be performed in accordance with the applicable manufacturer’s recommended maintenance schedule. The Parties agree to cause their Facilities or systems to be constructed in accordance with specifications equal to or greater than those provided by the *Philippine Electrical Code*, in effect at the time of construction.

Each Party covenants and agrees to design, install, maintain, and operate, or cause the design, installation, maintenance, and operation of, its distribution system and related Facilities and Units so as to reasonably minimize the likelihood of a disturbance, originating in the system of one Party, affecting or impairing the system of the other Party, or other systems with which a Party is interconnected.

Company will notify Generator if there is evidence that the Facility operation causes disruption or deterioration of service to other Generators served from the same grid or if the Facility operation causes damage to Company's system.

Generator will notify Company of any emergency or hazardous condition or occurrence with the Generator's Unit(s) which could affect safe operation of the system.

4. Limitation of Liability and Indemnification

- a. Notwithstanding any other provision in this Agreement, with respect to Company's provision of electric service to Generator, Company's liability to Generator shall be limited as set forth in the OADS Rules and terms and conditions for distribution service, which is incorporated herein by reference.***
- b. Neither Company nor Generator shall be liable to the other for damages for any act that is beyond such party's control, including any event that is a result of an act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, a curtailment, order, or regulation or restriction imposed by governmental, military, or lawfully established civilian authorities, or by the making of necessary repairs upon the property or equipment of either party.***
- c. Notwithstanding Paragraph 4.b of this Agreement, Company shall assume all liability for and shall indemnify Generator for any claims, losses, costs, and expenses of any kind or character to the extent that they result from Company's negligence in connection with the design, construction, or operation of its facilities as described on Exhibit A; provided, however, that Company shall have no obligation to indemnify Generator for claims brought by claimants who cannot recover directly from Company. Such indemnity shall include, but is not limited to, financial responsibility for: (a) Generator's monetary losses; (b) reasonable costs and expenses of defending an action or claim made by a third person; (c) damages related to the death or injury of a third person; (d) damages to the property of Generator; (e) damages to the property of a third person; (f) damages for the disruption of the business of a third person. In no event shall Company be liable for consequential, special, incidental or punitive damages, including, without limitation, loss of profits, loss of revenue, or loss of production. The Company does not assume liability for any costs for damages arising from the disruption of the business of the Generator or for the Generator's costs and expenses of prosecuting or defending an action or claim against the Company. This paragraph does not create a liability on the part of the Company to the Generator or a third person, but requires indemnification where such liability exists. The limitations of liability***

provided in this paragraph do not apply in cases of gross negligence or intentional wrongdoing.

- d. Notwithstanding Paragraph 4.b of this Agreement, Generator shall assume all liability for and shall indemnify Company for any claims, losses, costs, and expenses of any kind or character to the extent that they result from Generator's negligence in connection with the design, construction or operation of its facilities as described on Exhibit A; provided, however, that Generator shall have no obligation to indemnify Company for claims brought by claimants who cannot recover directly from Generator. Such indemnity shall include, but is not limited to, financial responsibility for: (a) Company's monetary losses; (b) reasonable costs and expenses of defending an action or claim made by a third person; (c) damages related to the death or injury of a third person; (d) damages to the property of Company; (e) damages to the property of a third person; (f) damages for the disruption of the business of a third person. In no event shall the Generator be liable for consequential, special, incidental or punitive damages, including, without limitation, loss of profits, loss of revenue, or loss of production. The Generator does not assume liability for any costs for damages arising from the disruption of the business of the Company or for the Company's costs and expenses of prosecuting or defending an action or claim against the Generator. This paragraph does not create a liability on the part of the Generator to the Company or a third person, but requires indemnification where such liability exists. The limitations of liability provided in this paragraph do not apply in cases of gross negligence or intentional wrongdoing.*
- e. The Company and the Generator shall each be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the point of delivery. The Company does not assume any duty of inspecting the Generator's lines, wires, switches, or other equipment and will not be responsible thereof. The Generator assumes all responsibility for the electric service supplied hereunder and the facilities used in connection therewith at or beyond the point of delivery, the point of delivery being the point where the electric energy first leaves the wire or facilities provided and owned by the Company and enters the wire or facilities provided by the Generator.*
- f. For the mutual protection of the Generator and the Company, only with the Company prior authorization are the connections between the Company's service wires and the Generator's service entrance conductors to be energized.*

5. Right of Access, Equipment Installation, Removal & Inspection— Upon reasonable notice, the Company may send a qualified person to the premises of the Generator at or immediately before the time the Facility first produces energy to inspect the interconnection, and observe the Facility's commissioning (including any testing), startup, and operation for a period of up to no more than three days after initial startup of the unit.

Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, Company shall have access to Generator's premises for any reasonable purpose in

connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its Generators.

6. Disconnection of Unit – Generator retains the option to disconnect from Company’s utility system. The Generator will notify the Company of its intent to disconnect by giving the Company at least thirty days’ prior written notice. Such disconnection shall not be a termination of the agreement unless the Generator exercises rights under Section 7.

The Generator shall disconnect Facility from the Company’s system upon the effective date of any termination under Section 7.

Subject to Commission Rule, for routine maintenance and repairs on Company’s utility system, Company shall provide Generator with seven business days’ notice of service interruption.

Company shall have the right to suspend service in cases where continuance of service to Generator will endanger persons or property. During the forced outage of the Company’s utility system serving Generator, Company shall have the right to suspend service to effect immediate repairs on Company’s utility system, but the Company shall use its best efforts to provide the Generator with reasonable prior notice.

7. Effective Term and Termination Rights-- This Agreement becomes effective when executed by both parties and shall continue in effect until terminated. The agreement may be terminated for the following reasons: (a) the Generator may terminate this Agreement at any time, by giving the Company sixty days’ written notice; (b) the Company may terminate upon failure by the Generator to generate energy from the Facility in parallel with the Company’s system within twelve months after completion of the interconnection; (c) either party may terminate by giving the other party at least sixty days prior written notice that the other Party is in default of any of the material terms and conditions of the Agreement, so long as the notice specifies the basis for termination and there is reasonable opportunity to cure the default; or (d) Company may terminate by giving Generator at least sixty days notice in the event that there is a material change in an applicable rule or statute.

8. Governing Law and Regulatory Authority -- This Agreement is in all respects governed by, interpreted, construed, and enforced in accordance with the laws of the Republic of the Philippines. This Agreement is subject to, and the parties’ obligations hereunder include, operating in full compliance with all valid, applicable national and local laws or ordinances, and all applicable rules, regulations, orders of, and tariffs approved by the Energy Regulatory Commission.

9. Amendment --This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties.

10. **Entirety of Agreement and Prior Agreements Superseded** -- This Agreement, including all attached Exhibits and Facility Schedules, which are expressly made a part hereof for all purposes, constitutes the entire agreement and understanding between the Parties with regard to the interconnection of the facilities of the Parties at the Points of Interconnection expressly provided for in this Agreement. The Parties are not bound by or liable for any statement, representation, promise, inducement, understanding, or undertaking of any kind or nature (whether written or oral) with regard to the subject matter hereof not set forth or provided for herein. This Agreement replaces all prior agreements and undertakings, oral or written, between the Parties with regard to the subject matter hereof, including without limitation _____ *[specify any prior agreements being superseded]*, and all such agreements and undertakings are agreed by the Parties to no longer be of any force or effect. It is expressly acknowledged that the Parties may have other agreements covering other services not expressly provided for herein, which agreements are unaffected by this Agreement.

11. **Notices** -- Notices given under this Agreement are deemed to have been duly delivered if hand delivered or sent by certified mail, return receipt requested, postage prepaid, to:

(a) If to Company:

(b) If to Generator:

The above-listed names, titles, and addresses of either Party may be changed by written notification to the other, notwithstanding Section 10.

12. **Invoicing and Payment** -- Invoicing and payment terms for services associated with this agreement shall be consistent with applicable **rules of the ERC**.

13. **No Third-Party Beneficiaries** -- This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

14. **No Waiver** -- The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered to waive the obligations, rights, or duties imposed upon the Parties.

15. **Headings** -- The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are to be afforded no significance in the interpretation or construction of this Agreement.

16. **Multiple Counterparts** -- This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized representatives.

[Company Name]

[GENERATOR NAME]

BY: _____
TITLE: _____
DATE: _____

BY: _____
TITLE: _____
DATE: _____

EXHIBIT A

LIST OF FACILITY SCHEDULES AND POINTS OF INTERCONNECTION

Facility Schedule No.

Name of Point of Interconnection

[Insert Facility Schedule number and name for each Point of Interconnection]

FACILITY SCHEDULE NO.

[The following information is to be specified for each Point of Interconnection, if applicable.]

1. Name:

2. Facility location:

3. Delivery voltage:

4. Metering (voltage, location, losses adjustment due to metering location, and other):

5. Normal Operation of Interconnection:

6. One line diagram attached (check one): _____ Yes / _____ No

7. Facilities to be furnished by Company:

8. Facilities to be furnished by Generator:

9. Cost Responsibility:

10. Control area interchange point (check one): _____ Yes / _____ No

11. Supplemental terms and conditions attached (check one): _____ Yes / _____ No

[Company Name]

[GENERATOR NAME]

BY: _____
TITLE: _____
DATE: _____

BY: _____
TITLE: _____
DATE: _____