



Republic of the Philippines
Department of Energy
Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig

DEPARTMENT ORDER NO. DO2014-10 - 0018^{PN}

ADOPTING A TEMPLATE FOR CONTRACT AREA AMENDMENT OF RENEWABLE ENERGY (RE) SERVICE CONTRACTS

WHEREAS, the Department of Energy (DOE) is continuously adopting new mechanisms and strategies to effectively carry out its plans and programs including those mandated under the Republic Act No. 9513 and its implementing rules and regulations;

WHEREAS, Department Order No. DO2013-08-0011 and Department Order No. DO2014-06-0010 adopted a new set of templates for all RE Service Contracts, as well as the enhanced process flow for the award of RE Service Contracts;

WHEREAS, the DOE received several requests from RE Developers for amendments of Contract Area under their respective RE Service Contracts;

WHEREAS, under the terms and conditions of duly executed RE Service Contract, it cannot be amended or modified in any respect except by the mutual consent in writing of the Parties;

WHEREAS, in order to facilitate and rationalize the amendments of RE Service Contracts, there is a need to adopt a template for Contract Area amendments;

WHEREAS, the RE Review and Evaluation Committee (RE-REC) was created under Department Circular No. DC2009-07-0011, and further strengthened under Department Circular No. DC2013-12-0021 and Department Circular No. DC2013-12-0023, to provide recommendations to the DOE Secretary for the award of RE Service Contracts;

WHEREAS, after a careful review of the existing process in the award of RE Service Contracts and the amendments thereto, the RE-REC has recommended the adoption of a template for Contract Area amendments;

NOW THEREFORE, for and in consideration of the foregoing premises, the DOE hereby orders the following:

Section 1. **Amendment of Contract Area in RE Service Contracts.** The DOE shall process requests for amendment of Contract Area in RE Service Contracts upon compliance with the following documentary and technical mandatory requirements, to wit:

1.1 Documentary Requirements:

- a. The RE Developer shall submit a formal request in writing addressed to the RE-REC, subject to Section 1.3 hereof;
- b. The RE Developer shall submit the technical description indicating the geographic coordinates using the Philippine Reference System 1992 (PRS 92) or the acceptable reference system at the time of filing and the map covering the proposed amendment to the Contract Area of a particular RE resource in accordance with *Annex "A series"* attached hereof;

1.2 Technical Requirements:

- a. The proposed amendment to the Contract Area shall be either adjacent to, adjoining or contiguous with, and/or proximate to the existing Contract Area under the RE Service Contract and shall be open for pre-development or development activities as certified by the Information and Technology Management Services (ITMS) of the DOE;
- b. The reasons and justifications for the amendment of Contract Area;
- a. An acceptable work program and budget in a Milestone approach with respect to the amended Contract Area.

- 1.3 Holders of RE Service Contracts issued in compliance with Department Order No. DO2013-08-0011 entitled *"Adopting Policies in Relation to the Processing of Renewable Energy Service Contracts and Mandating the Adoption of the Revised Templates for Renewable Energy Service Contracts"* dated 26 July 2013 shall only be allowed to apply for Contract Area amendment not earlier than the specific Milestone Period under the RE Service Contract and shall not be in default of their approved Milestone activities under the same RE Service Contract.

All other RE Service Contracts entered into by the DOE in compliance with existing templates of RE Service Contracts at the time of signing shall only be allowed to apply for Contract Area amendment not later than sixty (60) days prior to the expiration of the RE Service Contract, or prior to the submission of the Declaration of Commerciality (DOC). In case the DOC states that the viability of the project is subject to Contract Area amendment, such amendment may be allowed after the submission of the DOC.

The RE-REC, through the appropriate Renewable Energy Management Bureau (REMB) division, shall ensure that all proposals for Contract Area amendment shall comply with the foregoing requirement.

- 1.4 The RE Developer is not in default of its technical and financial obligations under the RE Service Contract.

The DOE may require submission of additional information/documents in support or clarification of the submitted documents under this Section.

- 1.5 The RE Developer shall pay the corresponding application/processing fee and the financial commitments, as applicable, covering the additional portion of the Contract Area.

Section 2. **Adoption of the Template for Amendments of Contract Area in the RE Service Contracts.** The following templates for amendments of Contract Area under existing RE Service Contracts are hereby adopted as follows:

- 2.1 RE Service Contracts issued in compliance to Department Order No. DO2013-08-0011 entitled *"Adopting Policies in Relation to the Processing of Renewable Energy Service Contracts and Mandating the Adoption of the Revised Templates for Renewable Energy Service Contracts"* dated 26 July 2013 shall adopt the template for amendments of Contract Area attached hereto as *Annex "B"*; and

2.2 All other RE Service Contracts entered into by the DOE in compliance to the existing templates of RE Service Contracts at the time of signing shall adopt the template for amendments of Contract Area attached hereto as *Annex "C"*.

Section 3. **Separability Clause.** If for any valid reason, any provision of this Department Order is declared unconstitutional or invalid, such part/s which are not affected shall remain in full force and effect.

Section 4. **Effectivity.** This Department Order shall take effect immediately.

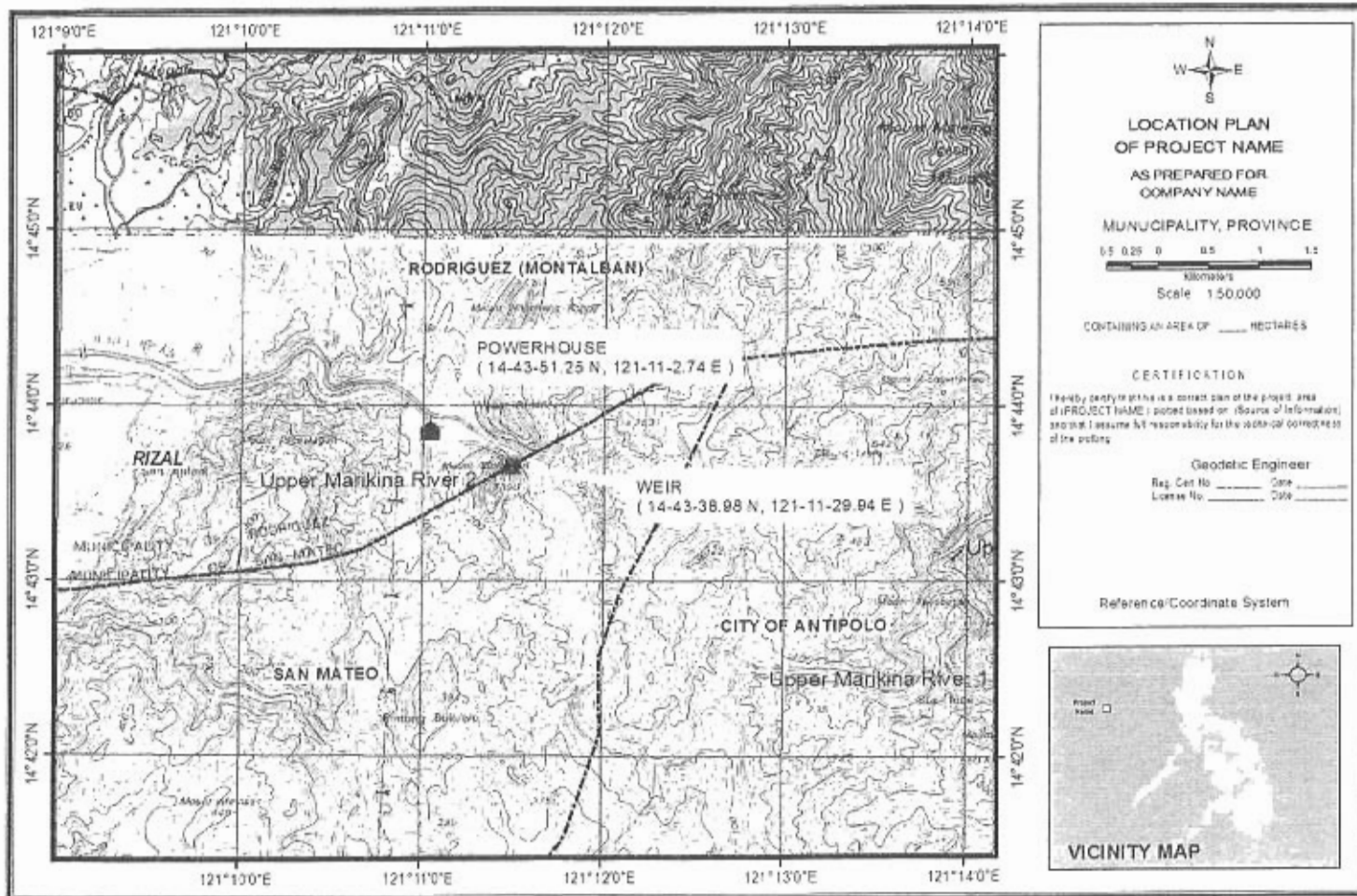
Issued on _____ at Energy Center, Bonifacio Global City, Taguig City.


CARLOS JERICO L. PETILLA
Secretary

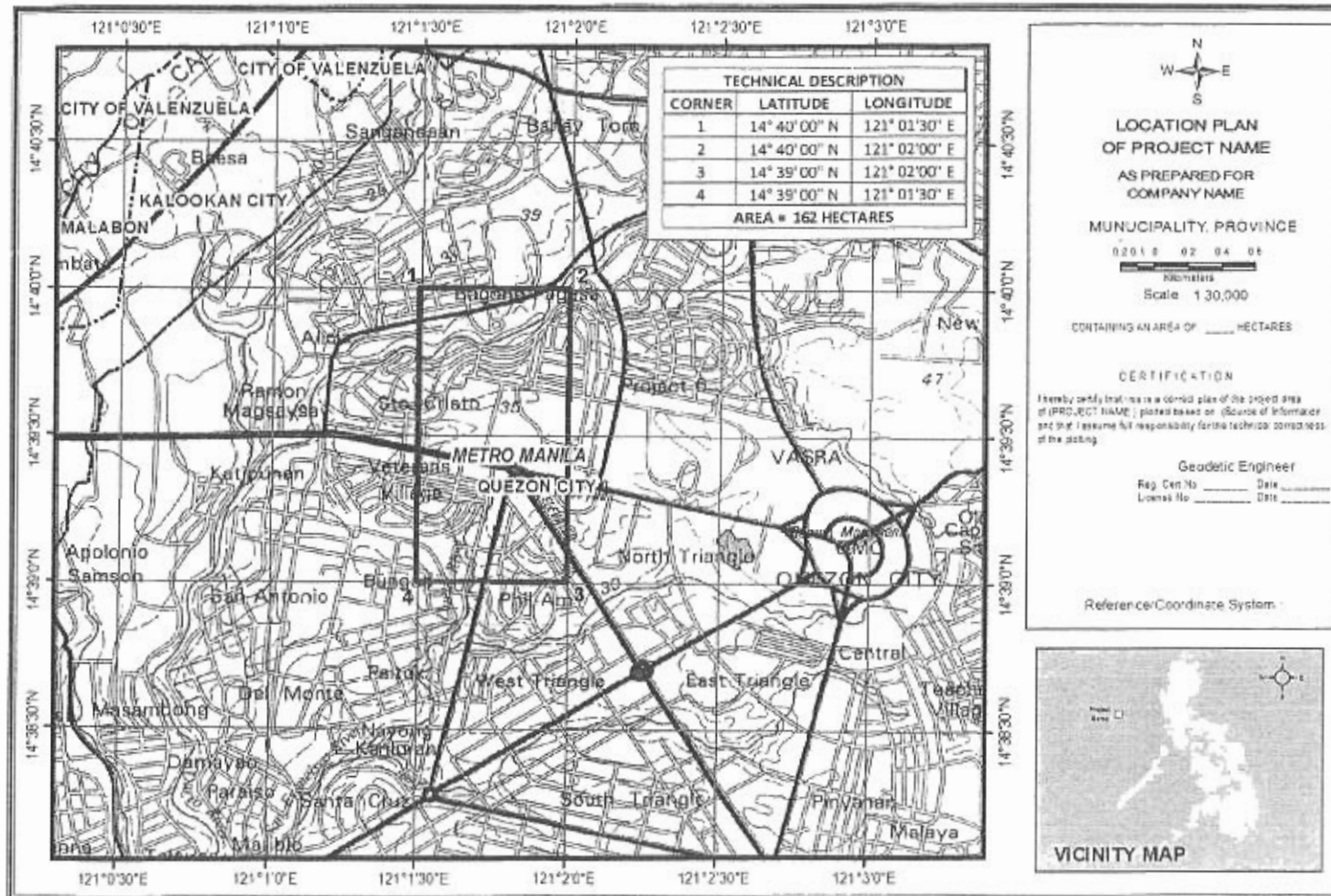


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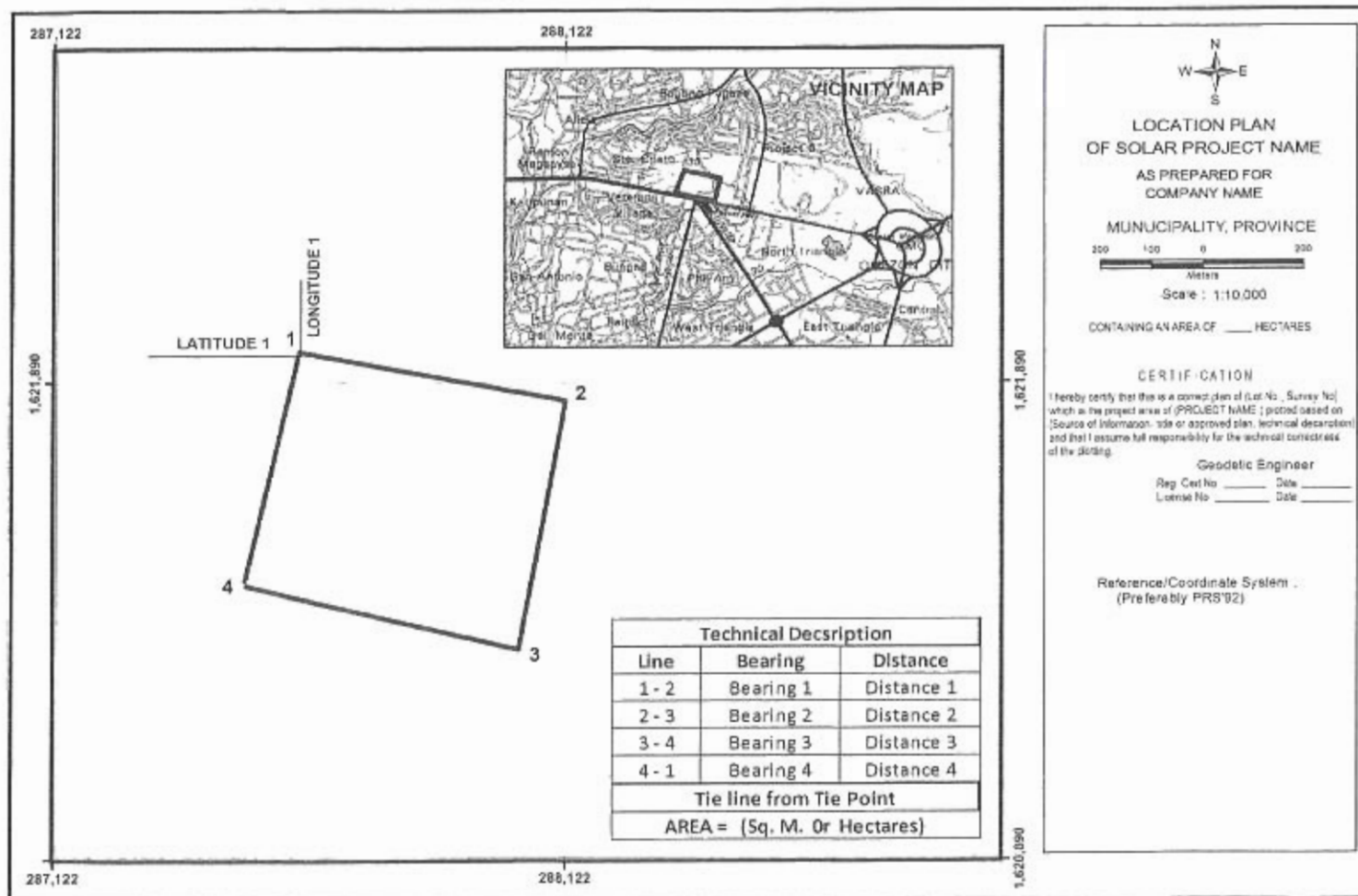
Annex "A-1". Sample Map for Hydro



Annex "A-2". Sample Map for Wind, Solar, Geothermal and Ocean



Annex "A -3". Sample Map for Biomass



**Republic of the Philippines
Department of Energy
Energy Center, Bonifacio Global City, Taguig City
Metro Manila, Philippines**

AMENDMENT TO _____ SERVICE CONTRACT No. _____

This Amendment to _____ Service Contract No. _____ (hereinafter referred to as the "Amendment"), made and entered into this ____ day of _____ in the City of Taguig, Metro Manila by and between:

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, hereinafter referred to as the "Government", acting through the **DEPARTMENT OF ENERGY**, hereinafter referred to as the "**DEPARTMENT**", with principal office at Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila, in this act represented by its Secretary, **HON.** _____ ;

- and -

_____, hereinafter referred to as the "**RE DEVELOPER**"; a corporation organized and existing under the laws of the Philippines, with principal office address at _____, in this act represented by its _____ ;

In this Amendment, the Government shall act through and be represented by the DEPARTMENT. The DEPARTMENT and the RE DEVELOPER are hereinafter referred to individually as "Party", and collectively as "Parties".

WITNESSETH; That

WHEREAS, the Parties entered into a _____ Service Contract No. _____ (the "RE Contract") dated _____ ;

WHEREAS, the RE DEVELOPER requested for an amendment of its Contract Area;

WHEREAS, under Section _____ of the RE Contract, it shall not be amended or modified in any respect except by the mutual consent in writing of the Parties;

WHEREAS, the Parties agreed to amend the Contract Area and are executing this Amendment to comply with the provisions of the RE Contract.

NOW, THEREFORE, in view of the foregoing premises, the Parties hereby stipulate and agree, as follows:

SECTION I. AMENDMENTS

1.1 Amendment to Section 2.1 (c) of the RE Contract. Section 2.1 (c) of the RE Contract is hereby amended as follows:

"Contract Area – the area awarded by the Department of Energy (DOE) for exploration, development and utilization of renewable energy resources pursuant to Republic Act No. 9513.

The Contract Area/Site is outlined and more particularly described in a map with its technical description in PRS 92 attached herein as Annex "A" and made an integral part of this RE Contract."

- 1.2 **Replacement of Annex "A".** The map referred to as Annex "A" under Section 2.1 (c) of the RE Contract shall be superseded and replaced by the map attached to this Amendment as Annex "A". All references to Annex "A" in the RE Contract and this Amendment shall refer to the attached map and made an integral part hereof as Annex "A".
- 1.3 **Additional Provisions.** The following provisions are hereby added, integrated and made an integral part of the RE Contract, to wit:

"Section 2 (o). "Milestones" refer to the specific activity or set of activities within the Contract Year indicated in the Work Program/Plan that will be the basis for evaluation and monitoring by the DEPARTMENT".

"Section 13.1. The RE Developer shall have sixty (60) days from written notice from the DEPARTMENT of any of the foregoing to cure the default. Failure of the RE DEVELOPER to cure the default at the end of the sixty (60)-day period shall result in the automatic Termination of this RE Contract: Provided, however, That in case the ground for the Termination is non-compliance with the approved Work Program for reasons not attributable to Force Majeure, the Termination shall not be subject to the curing period and shall be effective immediately as indicated in the notice duly issued by the Department: Provided further, That non-compliance of the approved Work Program, as specified in Section III hereof, during the Pre-Development Stage shall be determined on the basis of the following:

- i. Failure of the RE DEVELOPER to comply with its first annual Milestone under the approved Work Program;*
- ii. Failure of the RE DEVELOPER to disburse the cost equivalent of at least eighty percent (80%) of the total financial cost of its first annual Milestone which is set by the DEPARTMENT at _____ (Php _____) per Milestone Cost. .*

Provided finally, That during the Development Stage, non-compliance with the Milestones for the succeeding years under the approved Work Plan, as specified in Section II hereof, and failure to disburse the cost equivalent of _____ (Php _____) per megawatt shall result in the Termination of this RE Contract or give rise to the right of the DEPARTMENT for recourse of the Performance Bond."

SECTION II. WORK PLAN AND BUDGET

The RE DEVELOPER shall submit within thirty (30) days from the effective date hereof an amended Work Plan and Budget setting forth the amended _____ Operations in relation to the Contract Area which the RE DEVELOPER proposes to carry out from the Effective Date until 31 December of the same Calendar Year.

SECTION III. OTHER PROVISIONS

- 3.1 In consideration of the execution of this Amendment, the RE DEVELOPER shall pay the DEPARTMENT a signature bonus in the amount of _____ (Php _____).
- 3.2 Upon confirmation of the Declaration of Commerciality, the RE DEVELOPER shall, upon request of the DEPARTMENT, provide development assistance in kind in the amount of _____ (Php _____).
- 3.3 The RE DEVELOPER as directed by the DEPARTMENT shall provide assistance for training programs, conference, seminars and other similar activities for the DEPARTMENT's personnel in the amount of _____ (Php _____) per Contract Year. This assistance shall be accumulated for the succeeding Contract Years if not availed of in a given Contract Year. The RE DEVELOPER shall pay the unutilized amount of the training commitment prior to the expiration or termination of this RE Contract.

SECTION IV.

All other provisions in the Contract not affected by this Amendment shall remain in force and binding between the Parties.

SECTION V.

This Amendment shall come into effect on the Effective Date.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the day and year first above written.

DEPARTMENT OF ENERGY

By:

RE DEVELOPER

By: _____

(NAME)
Secretary_____
NAME
Designation

Witnesses:

(NAME)
DESIGNATION_____
(NAME)
DESIGNATION

ACKNOWLEDGMENT

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

Before me, a Notary Public duly authorized in the City of _____, this _____, personally appeared:

Name	Competent Evidence of Identity	Date and Place of Issuance

known to be the same person described in the foregoing instrument, who acknowledged before me that his signature on the instrument was voluntarily affixed by him for the purposes stated therein, and who declared to me that he executed the instrument as his free and voluntary act and deed as well as the free and voluntary act and deed of the government agency herein represented.

This Amendment consisting of five (5) pages, including the page on which the acknowledgment is written, is signed on each and every page thereof by the Party and his instrumental witness and sealed with my notarial seal.

WITNESS MY HAND AND SEAL on _____ at _____.

NOTARY PUBLIC

Doc. No. _____;
 Page No. _____;
 Book No. _____;
 Series of 2014.

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Department of Energy
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*"Section 2 (o). "**Milestones**" refer to the specific activity or set of activities within the Contract Year indicated in the Work Program/Plan for the additional Contract Area that will be the basis for evaluation and monitoring by the DEPARTMENT".*

"Section 13.1. The RE Developer shall have sixty (60) days from written notice from the DEPARTMENT of any of the foregoing to cure the default. Failure of the RE DEVELOPER to cure the default at the end of the sixty (60)-day period shall result in the automatic Termination of this RE Contract in reference to the additional Contract Area: Provided, however, That in case the ground for the Termination is non-compliance with the approved Work Program for the additional Contract Area for reasons not attributable to Force Majeure, the Termination shall not be subject to the curing period and shall be effective immediately as indicated in the notice duly issued by the Department: Provided further, That non-compliance of the approved Work Program for the additional Contract Area, as specified in Section III hereof, during the Pre-Development Stage shall be determined on the basis of the following:

- i. Failure of the RE DEVELOPER to comply with its first annual Milestone under the approved Work Program for the additional Contract Area;*
- ii. Failure of the RE DEVELOPER to disburse the cost equivalent of at least eighty percent (80%) of the total financial cost of its first annual Milestone which is set by the DEPARTMENT at _____ (Php _____) per Milestone Cost.*

Provided finally, That during the Development Stage, non-compliance with the Milestones for the succeeding years under the approved Work Plan for the additional Contract Area, as specified in Section II hereof, and failure to disburse the cost equivalent of _____ (Php _____) per megawatt shall result in the Termination of this RE Contract or give rise to the right of the DEPARTMENT for recourse of the Performance Bond."

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SECTION IV.

All other provisions in the Contract not affected by this Amendment shall remain in force and binding between the Parties.

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This Amendment shall come into effect on the Effective Date.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the day and year first above written.

DEPARTMENT OF ENERGY

By:

RE DEVELOPER

By:

 (Name)
 Secretary

 Name
 (Designation)

Witnesses:

 NAME
 Designation

 NAME
 Designation

ACKNOWLEDGMENT

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

Before me, a Notary Public duly authorized in the City of _____, this _____, personally appeared:

Name	Competent Evidence of Identity	Date and Place of Issuance

known to be the same person described in the foregoing instrument, who acknowledged before me that his signature on the instrument was voluntarily affixed by him for the purposes stated therein, and who declared to me that he executed the instrument as his free and voluntary act and deed as well as the free and voluntary act and deed of the government agency herein represented.

This Amendment consisting of five (5) pages, including the page on which the acknowledgment is written, is signed on each and every page thereof by the Party and his instrumental witness and sealed with my notarial seal.

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