

**VIVANT CORPORATION**  
MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS  
*Vivant Board Room, Ayala-Life FGU Center*  
*Cebu Business Park, Cebu City*  
*October 18, 2013 at 9:00 A.M.*

**PRESENT:**

Mr. Dennis N. A. Garcia - Chairman  
Mr. Ramonito E. Garcia - President  
Mr. Charles Sylvestre A. Garcia - Director  
Mr. Gil A. Garcia II - Director  
Mr. Emil Andre M. Garcia - Director  
Mr. Elbert M. Zosa - Director  
Mr. Effen P. Sarmiento - Director  
Mr. Jose Marko A. G. Sarmiento - Director  
Amb. Raul Ch. Rabe - Independent Director

**ALSO PRESENT:**

Mr. Arlo A.G. Sarmiento - Chief Operating Officer  
Ms. M. Carmela N. Franco - VP-Finance  
Ms. Maria Victoria E. Sembrano - AVP- Admin. & Finance  
Atty. Macario C. Padullo, Jr. - AVP-Corp. Management Systems  
Mr. Juan Eugenio L. Roxas - AVP-External Affairs  
Atty. Jess Anthony N. Garcia - Corporate Secretary  
Atty. Joan A. Giduquino-Baron – Assistant Corporate Secretary  
Mr. Hans R. Hauri

**NOT PRESENT:**

Atty. Jesus B. Garcia, Jr. - Independent Director

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**I. Call to Order**

The Chairman, Mr. Dennis N.A. Garcia (DAG), called the meeting to order at 9:00 A.M. and presided over the same.

**II. Proof of Notice and Certification of Quorum**

The Corporate Secretary, Atty. Jess Anthony N. Garcia (JNG) certified to the Board of Directors (BOD) that notices were sent in accordance with the By-Laws and a quorum was present to transact business.

### **III. Reading and Approval of Minutes of Previous Meeting**

The minutes of the Board of Directors' (BOD) meeting last March 22, 2013 was presented by JNG to the BOD for approval. Upon motion that was duly seconded, the BOD approved the minutes as presented without corrections.

### **IV. Project Updates**

- Project Mountain View

Atty. Macario C. Padillo, Jr. (MCP) gave the BOD a brief background of Project Mountain View. He then discussed the detailed timeline for the project, project milestones such as the signing of the EPC contract, Loan Agreement, Notice to Proceed, Start of Construction, First Loan Drawdown, Signing and Execution of Shareholders Agreement, Equity infusion by Vivant, the execution of the MOA between the parties that will govern the roles and relationship during construction and commercial operation, among others.

MCP also gave updates on the due diligence being conducted by Vivant management. He showed a list of documents requested. He also reported that there are some documents that have not yet been submitted to VIVANT. MCP said that management was now asking guidance from the BOD on a decision whether to proceed with the investment into Mindanao Coal considering that there are still some documents for due diligence examination that have not yet been submitted to VIVANT. Arlo A.G. Sarniento (AGS) said that the recommendation of management was to proceed with the investment even if the insurance contracts were not available; however, Minergy has to submit all other documents requested by VIVANT. The BOD agreed with the recommendation of management and authorized the investment into Mindanao Coal subject to the submission of all requested documents for due diligence examination and a thorough review of such documents.

MCP also presented the details of the Provisional Authority given by the ERC for the Mindanao Coal Project.

AGS reported to the BOD that the Abaya family, the controlling shareholders of CEPALCO and MINERGY, invited Vivant to invest in the Coal Project.

AGS also reported that there are oppositors to the project, including NGCP. He also cautioned the BOD that the ERC has also reversed its own provisional authority in the past, so there is still a chance that the approved rates may be revised.

Amb. Rabe said that based on his knowledge of CEPALCO and the Abaya family, VIVANT was chosen as a partner because VIVANT is seen as a trustworthy and dynamic group that can add value to Mindanao Coal.

MCP also reported that the project had some significant issues, namely: 1) mode of entry of VIVANT into the project, 2) VIVANT's roles during construction and operation of the power

plant, 3) EPIRA's cross-ownership caps between a generation and a distribution company, and 4) embedded nature of the power plant.

MCP also discussed the salient provisions of the MOA between Minergy and VIVANT 1) it contemplates the execution of a MOA that will define roles of the parties in construction and operation of the power plant, 2) VIVANT will invest its equity sooner, within 2 weeks from first draw down, 3) expanded list of milestones, and 4) pre-agreed list of documentary deliverables for due diligence examination.

MCP also gave the highlights of the financial model of the project. Project cost for 2 generating units was at Php 14.6 Billion, and Php 19.17 Billion for 3 units.

MCP also presented VIVANT cashflows from the project for the two units, namely, the project's cashflows and that of VIVANT's equity cashflows. He reported that Payback was projected to be 8 years and that project IRR was at 10.79% and equity IRR at 17.64%.

MCP said that VIVANT was conservative in its assumptions for the refinancing.

Finally, MCP reported that project returns will increase if there will be three generating units.

- Project Bridge

Emil Andre M. Garcia (EMG) reported on the privatization of the UL geothermal power plants. He said that PSALM was bidding out the administration of the capacity of the UL power plants. He gave a background of the relationships among NPC, PSALM, and the IPP. He also discussed the details and mechanism of the bidding process that is being conducted by PSALM. He said that PSALM was bidding out the "strips" and "bulk" energy from the UL plants. Each strip is 1MW each. The "bulk" energy is everything beyond 240MW of the strips. He said that there is no turnover of assets in the bid.

For the strips, he reported that a bidder should only give one price for all the strips it bids and a maximum of 40 strips per bidder. The price of the 200<sup>th</sup> strip will be the price for all winners for the strips.

EMG also reported on the bulk energy bid. He said that the bulk energy is the right to administer the UL output in excess of 240MW sum of strips.

The bid is a uniform Monthly Payment in Peso denomination. The administrator will also pay (but not bid for) a fixed energy rate of peso per kwhr of about 2.50php/kwhr.

EMG also discussed the risks of the bulk bidding.

EMG also reported the JV proposal with Global. He said that the proposal was for Global and VIVANT to form a consortium and share in the participation in the event that either or both parties win in either or both the strips and the bulk.

Management asked approval from the BOD to bid for the strips at a range of Php4.50 and Php5.50 subject to further assessment by management taking into consideration the other interests of the company and Project San Carlos. *The BOD resolved to approve management's suggestion.*

Thus, after motion duly made and seconded, the Board unanimously approved the following resolutions:

**“RESOLVED**, that the Corporation be, as it is hereby authorized, to submit the Letter of intent (LOI), execute the Confidentiality Agreement and an Undertaking, and receive the Bidding Package as these documents are defined under and by virtue of the provision of the Administration Agreement for the Selection and Appointment of Independent Power Producer Administrators (IPPAs) for the Bulk Energy of the Unified Leyte Geothermal Power Plant (ULGP) to be executed by the Corporation with the Power Sector Assets and Liabilities Corporation (PSALM) (the “Agreement”);

**“RESOLVED FURTHER**, that either one of MR. RAMONTTTO E. GARCIA, President, or MR. ARLO A.G. SARMIENTO, Chief Operating Officer, or MR. EMIL ANDRE M. GARCIA, Treasurer, or JUAN EUGENIO L. ROXAS, Authorized Representative, be and is hereby authorized to (i) issue the LOI, sign the Confidentiality Agreement and an Undertaking, and receive the Bidding Package; (ii) receive all SBBs, the Final IPPA AA for the Bulk Energy, communications, correspondences, notices and legal processes for the Corporation; (iii) represent the Corporation in the Bidding Process, including the execution and signing of the final IPPA AA; and, (iv) act for and in behalf of the Corporation during the opening and evaluation of Bids, on all matters to be taken, including the authority to represent, revise, and amend documents, bid for and bind the Corporation in the event that an auction is called to settle a tie;

**RESOLVED FURTHER**, that for all of the following purpose, namely (i) receive all SBBs, the Final IPPA AA for the Bulk Energy, communications, correspondences, notices and legal processes for the Corporation; (ii) represent the Corporation in the Bidding Process, including the execution and signing of the final IPPA AA; and, (iii) act for and in behalf of the Corporation during the opening and evaluation of Bids, on all matters to be taken, including the authority to represent, revise, and amend documents, bid for and bind the Corporation in the event that an auction is called to settle a tie, the following order of preference in representation shall be followed:

MR. ARLO A.G. SARMIENTO, or in his absence  
MR. EMIL ANDRE M. GARCIA, or, in the absence of both Messrs.  
Sarmiento and Garcia,  
JUAN EUGENIO L. ROXAS, Authorized Representative

“RESOLVED FURTHER, that JESS ANTHONY N. GARCIA be and is hereby authorized to execute and deliver, or caused to be delivered, the Secretary’s Certificate attesting to the Resolutions issued by the Board of Directors as well as the Resolutions to be issued by the Stockholders and required by PSALM in relation to the Conditions Precedent required under the Agreement;

“RESOLVED FINALLY, that the Corporation confirms and ratifies, as it hereby confirms and ratifies, the acts and things done by MR. RAMONTITO E. GARCIA, or MR. ARLO A.G. SARMIENTO, or MR. EMIL ANDRE M. GARCIA, or JUAN EUGENIO L. ROXAS, pursuant to and in accordance with the foregoing grant of authority.”

Management also asked approval to proceed with the proposal of GBP. *The BOD resolved to approve management’s suggestion.*

Management also asked approval to desist from bidding on the “bulk”. *The BOD resolved to approve management’s suggestion.*

- Project San Carlos

EMG discussed the coal plant proposed in Toledo, Cebu. He said that this would be built to address the requirements of VECO.

This is a project proposed by AP to VIVANT. Debt will be 75%, equity at 25%. VIVANT’s ownership will depend on the amount contracted by VECO. He gave the equity infusion requirements of the project as well as the 7-year project cash flow.

- VMHI

EMG gave updates on the VMHI project. He reported on the status of the permits such as the ECC, Water Rights, and Certificate of Non-overlap. He also reported on the ongoing negotiations with CENECO for a bilateral supply contract. He said that the negotiations are stuck on the issue that the contract being offered by VMHI is non-firm.

VMHI is also discussing an interconnection agreement with CENECO under a 69kv line connection. VMHI will conduct a Distribution Impact Study and shoulder its cost.

M. Carmela N. Franco (MNF) discussed the project financing for the VMHI project. She said that negotiations with banks are ongoing, tentative term will be 8-10 years, debt will be between 70 and 80% of project cost and that it will be purely project financing.

Atty. Joan Gidbuquio-Baron (JGB) discussed the lot acquisition issues of VMHI. She said that there were 8 parcels of land involved in the project. She said that since most of the parcels of land are covered by the CARP, a “right-of-way” and perpetual right-to-use will have to be negotiated with the land owners.

JGB also reported that 2 parcels are still owned by the Tampinco family and that they have already been covered by the CARP law. However, the parcels have not yet been distributed to beneficiaries. She said that this is a matter that has to be investigated further in order to determine the parties that VMHI has to negotiate with for the right-of-way.

Management asked the BOD for guidance on whom to award the EPCC Contract. OR Sarmiento has bid PhP782 Million while Sta. Clara's bid at PhP942 Million for a difference of PhP159 Million. Management said that they asked a third party to determine whether the price of OR Sarmiento was realistic. The findings were that the proposal of OR Sarmiento was sound and realistic.

*The BOD approved the recommendation of management to award the EPC to OR Sarmiento.*

EMG also discussed the project financials.

**V. CPPC Transfer**

The BOD deferred discussions under this topic.

**VI. NR Penalties**

AGS discussed to the BOD updates on the RTD violation penalties of NR sanctioned by PEMC. JNG discussed the legal strategy of NR to file a cease and desist order with the ERC.

**VII. YTD August 2013 Financials**

The BOD deferred discussions under this topic.

**VIII. Fixed Rate Corporate Notes Issue**

MNF reported on the FRCN issue. She said that the company intends to issue corporate notes with the following indicative terms: 1) PhP2 Billion issue size with greenshoe option of up to PhP1 Billion, 2) tenor of 7 years, 3) interest rate is fixed at PDSTF 7 years + Spread, 4) Spread at 150 – 200 bps, 5) Pricing date is on December 17, 2013, 6) Issue Date is on December 19, 2013, 7) Drawdown Schedule is as follows: Tranche 1 on December 19, 2013 for PhP1 Billion and Tranche 2 on March 3, 2014 for PhP1 Billion, 8) Availability Period is up to March 31, 2014 and 9) Commitment fee of 25 bps p.a.

She also discussed the time table for the notes issuance. She reported that the Organizational Meeting was last July 11, 2013 and the Launch of Syndication will be on October 25, 2013. She also reported that the roadshow will be on November 7, 2013 and that the Release of Initial Draft of the Notes Facility Agreement will be on Dec. 6, 2013.

Management asked for BOD approval to proceed with corporate notes issuance as proposed. *The BOD approved the notes issuance.*

Thus, after motion duly made and seconded, the Board unanimously approved the following resolutions:

**“RESOLVED**, that the the Board of Directors of Vivant Corporation (the “Company”) authorize, as it hereby authorizes, the Company to execute, deliver and perform the Notes Facility Agreement with First Metro Investment Corporation and Metropolitan Bank and Trust Company – Trust Banking Group (the “Agreement”), the fixed-rate Notes, and all other documents, instruments and deeds required thereunder;

**RESOLVED, FURTHER**, that the Board of Directors authorize, as it hereby authorizes any two of the following signatories to execute and deliver the Agreement, the fixed-rate Notes, and all other documents, instruments and deeds required thereunder, with their respective specimen signatures below:

Name of Officer:	Designation	Specimen Signature
1. Dennis N.A. Garcia	Chairman of the Board	_____
2. Ramonito E. Garcia	President	_____
3. Arlo A.G. Sarmiento	EVP & Chief Operating Officer	_____
4. M. Carmela N. Franco	VP for Finance	_____

**RESOLVED FINALLY**, that the Company hereby ratifies and confirms all that its authorized representatives have done or caused to be one on behalf of the Company pursuant to the foregoing resolutions.”

**IX. Other Matters and Adjournment**

There being no other matters to discuss, after a motion duly made and seconded, the Chairman of the Board formally declared the meeting adjourned at 5:00 pm.

Prepared by:

**JESS ANTHONY N. GARCIA**  
*Corporate Secretary*

Attested by:

**DENNIS N.A. GARCIA**  
*Director*

**GIL A. GARCIA II**  
*Director*

**CHARLES SYLVESTRE A. GARCIA**  
*Director*

**EMIL ANDRE M. GARCIA**  
*Director*

**ERREN P. SARMIENTO**  
*Director*

**ELBERT M. ZOSA**  
*Director*

**JOSE MARKO A.G. SARMIENTO**  
*Director*

**RAMONNITO E. GARCIA**  
*President*

**AMB. RAUL CH. RABE**  
*Independent Director*