

LUECO Third Party Bids and Awards Committee (TPBAC)

Quezon Avenue, San Fernando City

BID BULLETIN No. 11

07 April 2021

FURTHER AMENDMENTS

I. Instruction to Prospective Bidders (IPB)

- a) SECTION 9 Definition of “Business Day” is further amended to read as follows:**

“Business Day” means any Day from Monday to Friday on which banking institutions are open for the transaction of business, excluding national holidays in the Philippines and local holidays in La Union and Metro Manila as the context may require.

- b) ANNEX 9 is further amended to read as follows:**

xxx

1. xxx

2. Subject to the other provisions of this Letter of Credit, LUECO is hereby irrevocably authorized to make one drawing for the entire Stated Amount under this Letter of Credit by presenting to the Issuer, at its address set forth above, a demand for payment to LUECO in substantially the form to be provided by the Bank, duly completed, and is in the form of a letter on LUECO’s letterhead signed by any of its authorized signatories, indicating that any of the following conditions, among others cited in Sec. 3.3.2. of the IPB, were met:

- a. If the bidder withdraws its bid during the period of bid validity specified by the bidder on the bid form; or

- b. If the bidder having been notified of the acceptance of its bid by the beneficiary during the bid validity period;
- i) fails or refuses to execute the contract form if required; or
 - ii) fails or refuses to furnish the performance security in accordance with the instruction to Bidders.

3. xxx

4. We hereby agree to honor the drawing hereunder made in compliance with this Letter Of Credit notwithstanding any objection that the Bidder might raise against LUECO's entitlement to payment, by transferring in immediately available funds to the Designated Account the amount specified in a demand for payment at the opening of business no later than the second Business Day succeeding the date of such demand. As used herein, the term "Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions in La Union, Philippines and Metro Manila are authorized or obligated by law or executive order to remain closed.

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7. All documents presented to the Issuer in connection with a drawing hereunder, as well as all notices and other communications to the Issuer in respect of this Letter of Credit, shall be in writing and addressed and presented to the Issuer at its address set forth above. Such documents, notices, and communications shall make specific reference to this Letter of Credit by number. Such documents, notices, and other communications may be delivered or sent ~~either by electronic means or by courier~~ to the Issuer at its address set forth above, or at such other address as the Issuer shall have specified in writing to LUECO., ~~or sent to LUECO to the following Email Address:~~

~~—————Email Address: lueco_esp@luecoinc.com~~

xxx

13. To the extent that the provisions of this Letter of Credit are not governed by ISP 98, this Letter of Credit shall be governed by the laws of the Republic

of the Philippines and construed in accordance with said laws, without regard to ~~conflicts of law principles. of contents of law.~~

XXX

ANNEX A - DRAWING CERTIFICATE

Standby Letter of Credit — Beneficiary's Drawing Certificate

Date: _____

(Name of Bank)

(Address)

Re: Standby Letter of Credit No. _____

Gentlemen:

La Union Electric Co., Inc. (LUECO), herein represented by its President/Chairman, **CARLOS L. VALERO**, is the beneficiary under Standby Letter of Credit No. _____ issued by the _____ (*name of bank*) upon the request of _____ (*Indicate Name of Applicant*), with the following details (the "SBLC"):

Letter of Credit: _____

Amount: _____

Tenor: _____

Expiry Date: _____

Beneficiary: _____

_____ has defaulted in its obligations and has failed to comply with its bid conditions. The Beneficiary demands payment of _____ (*Indicate Amount*) under the SBLC. Payment shall be made to _____ (*Indicate Account instructions*) upon submission of this Certificate together with the original copy of the SBLC, or any amendments, if any.

This demand is made in accordance with the terms of the aforesaid SBLC.

LA UNION ELECTRIC COMPANY, INC.

By:

CARLOS L. VALERO

President/ Chairman

LUECO Bldg. Quezon Avenue, Brgy. III, City of San Fernando, La Union

(072) 607-4770

lueco@luecoinc.com

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES}

_____ }S.S.

BEFORE ME, a Notary Public in and for _____, Philippines, personally appeared:

Name	Government Issued ID	Expiry Date/Place & Date of Issue

who is personally known to me and to me known to be the same person who executed the foregoing document and exhibited to me the above Government Issued ID; and was identified by me through competent evidence of identity. It was acknowledged to me that the execution of this document is the free and voluntary act and deed of said person and has the Authority to represent his Company.

The foregoing document is a BENEFICIARY'S DRAWING CERTIFICATE which consists of (___) pages including the page whereon this Acknowledgment is written. This Acknowledgment forms an integral part of the said document.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed hereof my notarial seal this _____ day of _____ 20___, at _____Philippines.

NOTARY PUBLIC

My commission expires on _____
Commission serial no. _____
Place of commission _____
Office address _____
Roll No. _____ IBP No. _____
PTR No. _____ Place _____ Date _____

Doc. No. _____
Page No. _____
Book No. _____
Series of 20 _____.

II. Electric Power Purchase Agreement (EPPA)

- a) **ARTICLE 1 Definition of "Business Day" is further amended to read as follows:**

"Business Day" means any Day from Monday to Friday on which banking institutions are open for the transaction of business, excluding national holidays in the Philippines and local holidays in La Union and Metro Manila as the context may require. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business.

The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

b) **2.3.3.2 Commencement Date is amended to read as follows:**

xxx

2.3.3.2 It shall be on August 26, 2021 or upon approval by the ERC, (whether **interim relief**, provisional or final), whichever is later but to coincide with NGCP Billing every 26th day of the month.

c) **Article 3.1 is further amended as follows:**

3.1 SELLER shall, within fifteen (15) Days from receipt of ERC Approval, deliver to BUYER security ("Performance Security") in an amount equivalent to THREE HUNDRED FIFTY MILLION PESOS (PHP 350,000,000.00), in the form of an irrevocable stand-by letter of credit or bank guarantee, and at the time of issuance thereof, be issued by ~~an~~ **any of the** Acceptable Banks **per SCHEDULE 2.**

d) **Article 5.2 Payment Procedure is amended to read as follows:**

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5.2.3 If BUYER disputes all or any portion of an Invoice for a reason other than a manifest error in, or the apparent invalidity or incorrect form or substance of, such Final Invoice, BUYER shall nonetheless pay the full amount of such Invoice (subject to SCHEDULE 5). Any payment by BUYER under this Section **5.2.3** is without prejudice to BUYER's right at a later date within one (1) year following such payment to dispute, protest or question any amount so paid.

xxx

5.2.6 If any Party fails to make payment to another Party of any amount due under this Agreement, where such amount is not the subject of a Dispute, including but not limited to the award or settlement amount due under Section 5.2.5 interest thereon from the date when payment was originally due until payment thereof is received shall be calculated at a rate per annum equal to the T- Bill Rate as of the due date, plus two percent (2%) from the Day in which the sum was due and payable accruing from the date the disputed Invoice amount was paid until the time the award is settled.

Please be guided accordingly.

For TPBAC:

A handwritten signature in black ink, appearing to read 'Elnora Z. Balagot', is written over a horizontal line.

Elnora Z. Balagot
Secretariat