

Contents of Offer

Offers shall be composed of two (2) separate envelopes, namely the First Envelope (Eligibility Component) and the Second Envelope (Financial Component).

1. The First Envelope shall be marked “Eligibility Component” and shall contain three sets of the following Eligibility Documents:

a. For Individuals

- i. Duly accomplished Representations and Warranties Form (*for C*).
- ii. Copies of Two (2) valid government-issued IDs
- iii. Certification from at least one (1) commercial/universal bank, legally operating in the Philippines, stating that the Interested Party is known to them, maintains a deposit account with them and is in good financial and credit standing, and that, should the Interested Party be declared as the Winning Interested Party, they will provide sufficient credit facilities as required in the Winning Interested Party’s Financial Offer.
- iv. Letter authorizing PSALM representative/s to verify the validity of all documents submitted (Schedule E)
- v. Certification under oath of the Interested Party that all documents submitted in satisfaction of the eligibility requirements is original/authentic copy of the original, and that all statements and information provided therein are true and correct (Schedule F)
- vi. Waiver of Rights to seek legal remedies (e.g. Temporary Restraining Order (TRO), law suits, etc.) to prevent PSALM from awarding and executing a contract with the Winning Interested Party; (*PSALM Form No. 3*)

b. For Sole Proprietorship

- i. Duly accomplished Representations and Warranties Form (Schedule C)
- ii. Certified True Copy of DTI Registration and Business Profile
- iii. Certified True Copy of Latest Audited Financial Statement. The latest audited financial statements for fiscal year 2017 filed in 2018.
- iv. Certified True Copy of Mayor’s/Business Permit issued by the City or Municipality where the principal place of business of the prospective Interested Party is located.
- v. Certification from at least one (1) commercial/universal bank, legally operating in the Philippines, stating that the Interested Party is known to them, maintains a deposit account with them and is in good financial and credit standing, and that, should the Interested Party be declared as the Winning Interested Party, they will provide sufficient credit facilities as required in the Winning Interested Party’s Financial Offer.
- vi. Letter authorizing PSALM representative/s to verify the validity of all the documents submitted (Schedule E).

- vii. Certification under oath of the Interested Party that all documents submitted in satisfaction of the eligibility requirements is original/authentic copy of the original, and that all statements and information provided therein are true and correct (Schedule F).
  - viii. Waiver of Rights to seek legal remedies (e.g. Temporary Restraining Order (TRO), law suits, etc.) to prevent PSALM from awarding and executing a contract with the Winning Interested Party; (*PSALM Form No. 3*)
- c. For Corporation/Partnership/Joint Venture (JV)/Consortium
- i. Duly accomplished Representations and Warranties Form (Schedule C)
  - ii. Certified True Copy of SEC Registration and Company Profile of the Interested Party; or in case of a foreign entity, at least 60% Filipino-owned and licensed to do business in the Philippines
  - iii. Certified True Copy of Articles of Incorporation/Partnership, By-Laws of the Interested Party, as amended, if any;
  - iv. Certified True Copy of Mayor's/Business Permit issued by the City or Municipality where the principal place of business of the prospective Interested Party is located. Expired Mayor's/Business Permits shall not be acceptable;
  - v. Certification from at least one (1) commercial/universal bank, legally operating in the Philippines, stating that the Interested Party is known to them, maintains a deposit account with them and is in good financial and credit standing, and that, should the Interested Party be declared as the Winning Interested Party, they will provide sufficient credit facilities as required in the Winning Interested Party's Financial Offer.
  - vi. Board Resolution duly certified by the Interested Party's Corporate Secretary expressly authorizing the Interested Party's participation in the negotiation process, nominating, appointing, and authorizing a representative to communicate, represent, sign and execute contracts and other documents relative thereto;
  - vii. If a JV or Consortium, the Interested Party (including all its JV/Consortium members) shall submit a copy of the duly notarized JV Agreement/Memorandum of Agreement (MOA)/Understanding (MOU) which:
    - a. Briefly describes the JV/Consortium, the individual members of the JV/Consortium and the extent of the participation of each member;
    - b. Identifies the lead member of the JV/Consortium who is authorized by all the members to represent and sign any and all documents related to this process, receive notices/instructions and to make payments for and in behalf of the JV/Consortium; and
    - c. Provides that the members shall be jointly and severally liable for the obligations of the Interested Party under the award/contract.
  - viii. Letter authorizing PSALM representative/s to verify the validity of all documents submitted (Schedule E);

- ix. Waiver of Rights to seek legal remedies (e.g. Temporary Restraining Order (TRO), law suits, etc.) to prevent PSALM from awarding and executing a contract with the Winning Interested Party; (*PSALM Form No. 3*)
  - x. A declaration of any legal or other impediments which may affect the Interested Party's (and its JV or Consortium members) ability to participate in the negotiation or a certification to be submitted by the Interested Party (and its JV or Consortium members) stating the absence of such legal impediments;
  - xi. Certification under oath of the Interested Party that all documents submitted in satisfaction of the eligibility requirements is original/authentic copy of the original, and that all statements and information provided therein are true and correct (Schedule F).
- d. For Government Corporations/Entities
- i. Duly accomplished Representations and Warranties Form (Schedule C)
  - ii. Board resolution duly certified by the Interested Party's Corporate Secretary expressly authorizing the Interested Party's participation in the negotiation process, nominating, appointing and authorizing a representative to communicate, represent, sign and execute contracts and other documents relative thereto;
  - iii. Certified True Copy of Charter or applicable law on the creation of the entity;
  - iv. Bank Certification or any proof of funds availability.
- e. For Local Government Units
- i. Duly accomplished Representations and Warranties Form (Schedule C)
  - ii. Resolution of the Sanggunian authorizing the Local Chief Executive to enter into a contract of sale;
  - iii. Ordinance appropriating the amount to pay for the purchase of the property;
  - iv. Certification of the Local Treasurer as to availability of funds.
2. The Second Envelope shall be marked "Financial Component" (the "Second Envelope") and shall contain three (3) sets of the duly accomplished Form No. 1- Financial Offer.

Interested Parties are required to submit one (1) set of original, and two (2) sets of copies of the Eligibility Documents, with all 3 sets contained in the First Envelope. Likewise, the Second Envelope shall also contain 1 set of original and two (2) sets of copies of the Financial Bid Form. In the event of any discrepancy between the original and the copies, the original shall prevail.

Interlineations, erasures, overwriting, alterations or modifications in the Offer and documents accompanying the same shall not be allowed and shall invalidate the Offer.

An Interested Party must type/print its name below its signature or that of its authorized representative on the Offer Form. Offers of a partnership or a corporation shall be signed in the name of the Interested Party by an authorized partner or authorized officer, followed by the name, signature and designation of the person authorized to sign the Offer.

All Offers, documents, specifications, and related information shall be prepared and submitted in the English language.

SCHEDULE B

ACCEPTANCE OF THE NEGOTIATION PROCEDURES

\_\_\_\_\_ hereby declares, represents and warrants that:

1. it has read and understood each and every section and page of the Negotiation Procedures dated \_\_ January 2019 including all the Schedules and Annexes thereto, if any, as amended or otherwise supplemented (collectively, the "Negotiation Procedures") for the Proposed Sale of the MTPP Land located in Isla de Provisor, Paco, Manila; as well as the decisions of the PBAC; and accepts and agrees to be bound and fully abide by and comply with the terms and conditions of the Negotiation Procedures and any amendment, supplement or modification thereto, as well as the decisions of the PBAC;
2. 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 PBAC, PSALM, NPC and/or any third party to prevent or restrain the negotiations or any proceedings related thereto, the performance of the Negotiation Sale and any draw on or forfeiture of the Negotiation Security. Such waiver shall, however, be without prejudice to the right of the undersigned to question the lawfulness of any disqualification or the rejection of their offer by appropriate administrative or judicial processes not involving the issuance of a writ of injunction or prohibition or restraining order;
3. it shall at all times comply with Philippine Law; and
4. it unconditionally and irrevocably waives any defect, deviation, fault or infirmity in the negotiation process conducted by the PBAC or by PSALM up to and including the date hereof.

\_\_\_\_\_  
[INTERESTED PARTY]

By:

Witnessed by:

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Designation/Title]

## SCHEDULE C

### REPRESENTATIONS AND WARRANTIES FORM

(To be submitted on the Interested Party's  
letterhead)

[Date of Offer Submission

Deadline] THE CHAIRMAN  
PSALM Privatization, Bids and Award Committee  
Sale of Manila Thermal Power Plant Land

Power Sector Assets and Liabilities Management Corporation (PSALM)  
24<sup>th</sup> Floor, Vertis North Corporate Center  
1 Astra corner Lux Drives, North Avenue  
1105 Quezon City

Sir:

We refer to the Negotiation Procedures dated \_\_\_\_\_, as amended or supplemented, (*Negotiation Procedures*) for the Sale of Manila Thermal Power Plant (MTPP) Land located at Isla de Provisor, Paco, Manila (the MTPP Land). We submit this Financial Offer Form to the PSALM Privatization, Bids and Award Committee (the "PBAC") after having completed a comprehensive and complete business, legal, technical and financial due diligence.

Capitalized terms used but not defined in this document shall have the meaning given in the Negotiation Procedures.

We unconditionally, voluntarily and irrevocably state that:

1. This document represents our voluntary offer for the purchase of the Asset, all on the basis and terms set forth in the Deed of Absolute Sale (DOAS) that we will execute and deliver.
2. This document constitutes an unconditional and irrevocable offer, which shall be valid and may be accepted by PSALM within thirty (30) days from the day of the Offer Submission Deadline, regardless of any event including force majeure affecting the Asset, that may occur within such period or as may be extended, as provided in the Negotiations Procedures.
3. The Offer for the purchase of the MTPP Land on the terms set forth in the Negotiation Procedures, which we executed and delivered, is being made on an "as-is, where-is" basis.

4. [Interested Party's name] unconditionally and voluntarily represents and warrants that: It has secured, read and understood all sections and pages of the Negotiation Procedures, the Supplemental Negotiation Bulletins (SNB), their respective provisions, undertakings, terms and conditions, and corresponding amendments, supplements or modifications, the PBAC's decisions and the Negotiation Procedures;
  - a. It accepts, agrees to be bound, and shall fully abide by and comply with the terms and conditions of the Negotiation Procedures, the SNBs, their respective provisions, undertakings, terms and conditions, and corresponding amendments, supplements or modifications, the PBAC's decisions and the Negotiation Procedures;
  - b. The Interested Party and its representatives have conducted an independent due diligence, investigation, analysis and verification of the quality, quantity and condition of the MTPP Land and the Interested Party confirms that it and its representatives have been provided adequate access to the Asset, personnel, premises and pertinent records of PSALM and NPC;
  - c. It has fully informed itself and understood all the conditions and matters affecting or that could affect its Offer, participation or undertaking in the Negotiations or the implementation of the sale of the MTPP Land and other contemplated transactions as contained in the Negotiation Procedures;
  - d. It unconditionally and irrevocably waives all claims and causes of action against the PBAC, PSALM, or any of their advisors and consultants in the event that the Negotiations, selection and/or award be: (i) stopped or terminated by PSALM; or (ii) restrained, enjoined, declared invalid or is set aside by a court of competent jurisdiction or any Governmental Entity for any reason;
  - e. It unconditionally and irrevocably waives any defect, deviation, fault or infirmity in the Negotiation Process conducted by the PBAC or by PSALM;
  - f. All of the documents submitted in satisfaction of the Negotiation Procedures are original copies or true and faithful reproductions or copies of the original;
  - g. It will advise the PBAC within two (2) Business Days of any change in the information contained in any portion of its Offer or in previous submissions to PSALM or the PBAC;
  - h. It is not barred or blacklisted from participating in any bidding by any Government Entity or in any contract with a Government Entity;
  - i. The Interested Party, its officers and directors are not related to the Chairman, President, members of the Board of Directors of PSALM and

members of the PBAC by consanguinity or affinity up to the fourth civil degree, legitimate or common law;

- k. The Interested Party and/or its incorporators, past or present shareholders and directors, officers, employees, representatives or agents have not given, authorized or offered any commission or bribe or, in any manner, given or offered any money or other consideration directly or indirectly to any past or present director, officer, employee or agent of any Government Entity, including PSALM, which violates Philippine Law, including the Revised Penal Code (Act Number 3815, as amended) and the Anti-Graft and Corrupt Practices Act (RA 3019, as amended);
- l. The Interested Party and/or its parent company, stockholders, subsidiaries, Affiliates, directors, officers, or any of their relatives within the fourth civil degree of consanguinity or affinity, legitimate or common law, have no conflict, dispute or unsettled issue, arising out of, or in connection with the EPIRA or its Implementing Rules and Regulations, the DOE, PSALM, NPC or TRANSCO, which affect the privatization of NPC assets or TRANSCO, namely: (i) an unresolved issue, as determined by the inter-agency committee, arising from the renegotiation of contracts with IPPs mandated by Section 68 of the EPIRA; and (ii) any unpaid account arising from contractual obligations with the DOE, PSALM, NPC or TRANSCO. Any violation of this warranty shall constitute a sufficient ground for the disqualification of the Interested Party, the termination of the Negotiation Procedures, or forfeiture of the Negotiation Security, without prejudice to the filing of civil and/or criminal action under Philippine Law against the Interested Party and/or its representatives;
- m. It shall at all times comply with Philippine Law and it accepts Philippine Law as the law governing the Negotiations and the Negotiation Procedures;
- n. It unconditionally and irrevocably waives any right to seek and obtain a writ of injunction or prohibition or restraining order against the PBAC, PSALM, NPC and/or any third party to prevent or restrain the Negotiation Process or any related proceedings, the selection of the Interested Party with the Highest Offer, Buyer or Winning Interested Party, the performance of the Negotiation Procedures and the draw on or forfeiture of the Negotiation Security.
- o. It is qualified under Philippine Law to negotiate for the sale of the MTPP Land and in the event it is declared the Winning Interested Party, it is qualified under Philippine Law to own the Asset;
- p. It is not an Affiliate of another Interested Party, or does not hold or acquire any ownership interest in another Interested Party as listed in



the General Information Sheet; and

- q. It does not have any Affiliate: (i) who is a Interested Party; or (ii) who holds or acquires any ownership interest in another Interested Party as listed in the latest General Information Sheet.
5. Contained in the Second Envelope is one (1) copy of Financial Offer Form which shall constitute the Financial Offer of [Interested Party].

**[INTERESTED PARTY'S NAME]**

Signature Printed  
Name  
Title/Designation

Witnessed  
by:

\_\_\_\_\_

\_\_\_\_\_

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES )  
 ) s.s.

BEFORE ME, on this \_\_\_\_\_ at \_\_\_\_\_, personally appeared

Name	Identification Document	Date and Place of Issue
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known to me and to me known to be the same person who executed the foregoing Undertaking and Waiver and who acknowledged to me that the same is his/her true and voluntary act and deed and that of the Corporation which he represents.

WITNESS MY HAND AND SEAL at the date and place herein abovementioned.

Doc. No. \_\_\_;  
Page No. \_\_\_;  
Book No. \_\_\_;  
Series of 2019.

NOTARY PUBLIC

## SCHEDULE D

### FORM OF NEGOTIATION SECURITY ISSUED BY A BANK LICENSED TO DO BUSINESS AND IS OPERATING IN THE PHILIPPINES

(To be submitted on the letterhead of the Issuing Bank)

#### IRREVOCABLE STANDBY LETTER OF CREDIT

Number:

[.]

Amount: [.]

Stated Expiration Date [.] Account Party: [.]

Power Sector Assets and Liabilities Management Corporation (PSALM)  
24<sup>th</sup> Floor, Vertis North Corporate Center  
Astra corner Lux Drives, North Avenue  
1105 Quezon City

Subject: Letter of Credit

No. [.]

We refer to the Negotiation Procedures, dated \_\_\_\_\_, as amended or supplemented, (*Negotiation Procedures*) for the proposed sale of the MTPP Land located in Isla de Provisor, Paco, Manila.

We establish this Irrevocable Standby Letter of Credit No. [.] (*SBLC*) for the benefit of the Power Sector Assets and Liabilities Management Corporation (*PSALM* or *Beneficiary*) in the amount of [.] (*Drawing Amount*). Funds under this SBLC are available to PSALM, at sight, upon our receipt of the original copy of the SBLC and a Demand Certificate: (1) in the form of Annex A attached to this document notifying us of the occurrence of a Negotiation Security Drawing Event defined in the Negotiation Procedures; (2) appropriately completed and signed by PSALM's authorized officer, employee or signatory; and, (3) presented as specified on or before the Expiration Date defined in this document. The SBLC does not contain any condition to drawing other than our confirmation that the Demand Certificate appears, on its face, to comply with the requirements of the immediately preceding sentence.

The SBLC shall be drawable at our office in Metro Manila, Philippines.

PSALM shall present one Demand Certificate dated the date of presentation for the drawing to [name and address of Issuing Bank]. If PSALM presents the Demand Certificate by 10:00 AM local time on any day on which we are open for business (*Business Day*), in strict conformance with the SBLC's terms and conditions, we will honor it by making payment in immediately available funds: (1) in accordance with PSALM's payment instructions; (2) without any restrictions, conditions, inquiry

or right of objection on our part; (3) without notice to the Account Party prior to such payment; and, (4) notwithstanding any condition, demand, or objection by the Account Party or any other party, without PSALM having to further substantiate such demand, by 3:00

PM local time on such Business Day. Otherwise, we will honor PSALM's Demand Certificate by 10:00 AM local time on the following Business Day.

If demand for payment does not conform to the terms and conditions of this SBLC, we shall give PSALM prompt notice of and the reasons for the same, and that we will, upon PSALM's request, hold any document presented to us for five (5) Business Days or return the same to PSALM. Upon being notified that a demand for payment did not conform to this SBLC, PSALM may correct such non-conforming demand; provided that the corrected demand shall be made and presented to us on or before the Expiration Date.

This SBLC shall expire at 3:00 PM at our office on the earliest of the following: (1) the Stated Expiration Date; (2) our honoring of the Demand Certificate presented equal to the Drawing Amount, and, (3) PSALM's surrender of the original SBLC for cancellation. The earliest of these dates is the *Expiration Date*. Except if expressly provided in this paragraph, this SBLC shall not terminate prior to the Stated Expiration Date. Neither the Account Party nor us may terminate this SBLC prior to its Stated Expiration Date without the written consent of PSALM. Notwithstanding the occurrence of the Stated Expiration Date, we will honor and pay for the amount drawn by PSALM as stated in the Demand Certificate; provided, that the Demand Certificate was presented to us before the Expiration Date.

This SBLC sets forth in full our undertaking and references made to any document, instrument or agreement, except the Demand Certificate, shall not amend, modify, amplify or limit our undertaking.

All documents presented to us in connection with the demand for payment, and all notices and communications to us with respect to this SBLC shall be in writing and addressed and presented to us at our office at [address of Issuing Bank] Attention: [.], and shall make reference to this SBLC by number.

This SBLC shall be subject to the 1998 International Standby Practices and in case of dispute arising from, or in connection with, its interpretation or implementation, shall be subject to Philippine Law.

[Insert Date and Place of

Issue] [Issuing Bank]

THIS ANNEX A IS AN INTEGRAL PART OF  
LETTER OF CREDIT NO. [.]

DATE  
D [.]

ANNEX A  
**DEMAND CERTIFICATE** [Date]

[Address of Issuing

Bank] Attention: [.]

Re: Demand for Payment under Letter of

Credit No. Ladies and Gentlemen:

We refer to your Letter of Credit No. [.] (SBLC). Any term defined in the SBLC shall have the same meaning when used in this document. A Negotiation Security Drawing Event has occurred, and the Beneficiary demands payment of [amount] under the SBLC, such payment to be made to [insert account instructions].

This Certificate has been executed and delivered by the Beneficiary on [.] [date].

**POWER SECTOR ASSETS AND LIABILITIES  
MANAGEMENT CORPORATION**

Title

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