GUARANTEE PROGRAM IMPLEMENTATION AGREEMENT

This GUARANTEE PROGRAM IMPLEMENTATION AGREEMENT made and entered into this __________ day of ________, 2004, by and between

REPUBLIC OF THE PHILIPPINES, through its Department of Finance, with principal office at Department of Finance Building, Bangko Sentral Complex, Roxas Boulevard, Manila, Republic of the Philippines, represented herein by the Secretary of Finance, Juanita D. Amatong, and its Department of Energy, with principal office at Energy Center, Merritt Road, Fort Bonifacio, Taguig, Metro Manila, Republic of the Philippines, represented herein by the Secretary of Energy, Vincent S. Perez, Jr. (hereinafter referred to as the “Recipient”);

and

LGU GUARANTEE CORPORATION, a company duly organized and existing under Philippine laws, with principal office at 28th Floor, Antel 2000, 121 Valero Street, Salcedo Village, Makati City, Metro Manila, Republic of the Philippines, represented herein by its President/CEO, Jesus G. Tirona (hereinafter referred to as "LGUGC");

WHEREAS:

(1) The International Bank for Reconstruction and Development (the “Bank”) established the Global Environment Facility (“GEF”) and the GEF Trust Fund to assist in the protection of the global environment and promote environmentally sound and sustainable economic development.

(2) The Recipient requested assistance from the Bank for funding the Project described in Schedule 2 of this Agreement and the Bank approved the said request.

(3) Pursuant to a Global Environment Facility Trust Fund Grant Agreement dated May 5, 2004 between the Recipient and the Bank (the “RoP Grant Agreement”), the latter agreed to make available to the Recipient a GEF Trust Fund Grant in an amount in various currencies equivalent to Eleven Million One Hundred Twenty Three Thousand US Dollars (US$11,123,000.00) (the “RoP GEF Trust Fund Grant”) to assist in financing Parts A and B.2 of the Project (as described in Schedule 2 hereof).

(4) Under a Global Environment Facility Trust Fund Grant Agreement dated May 5, 2004, between LGUGC and the Bank (the “LGUGC Grant Agreement”), the latter agreed to make available to LGUGC a GEF Trust Fund Grant (Schedule 1) in an amount in various currencies equivalent to Eight Hundred Seventy Seven Thousand US Dollars (US$877,000.00) (the “LGUGC Trust Fund Grant”) to assist in financing Part B.1 of the Project (as described in Schedule 2 hereof).

(5) Sections 3.01 (b), 3.01 (c) and 6.01 (b) of the RoP Grant Agreement require for the effectivity thereof that the Recipient and LGUGC have entered into this Agreement for the purpose of carrying out Parts A and B.1 of the Project.
The Recipient hereby appoints LGUGC as the guarantee program manager and the latter has accepted such appointment;

NOW THEREFORE, the Recipient and LGUGC hereby agree as follows:

ARTICLE 1
DEFINITIONS

(a) “Agreement” means this Guarantee Program Implementation Agreement;

(b) “Category” means a category of items set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(c) “Closing Date” means December 31, 2011 after which date, grants will no longer be disbursed;

(d) “DOE” means the Recipient’s Department of Energy and any successor thereto;

(e) “DOF” means the Recipient’s Department of Finance and any successor thereto;

(f) “Electric Cooperative” or “EC” means a private-sector-owned corporation which (i) is organized pursuant to Chapter III of the NEA Charter, or (ii) if formed or registered under the Philippine non-Agricultural Co-operative Act prior to the NEA Charter, is converted into an electric cooperative pursuant to Chapter III of the NEA Charter, for the purposes of supplying, and of promoting and encouraging the fullest use of, electric service on area coverage basis at the lowest cost consistent with sound economy and the prudent management of the business of such corporation, and “Electric Cooperatives” means the plural thereof;

(g) “EC-PCG” means the Electric Cooperative – Partial Credit Guarantee Program to be managed by LGUGC;

(h) “Energy Regulatory Commission” means the Recipient’s regulatory agency created by Section 38 of the Electric Power Industry Reform Act of 2001;

(i) “Escrow Agent” means the trust department of the commercial bank selected by the Recipient for purposes of Section 2.02 (c) of the RoP Grant Agreement;

(j) “Fiscal Year” and the acronym “FY” mean the twelve-month period corresponding to any of the Recipient’s and LGUGC’s financial years, which period commences on January 1 and ends on December 31 in each calendar year, and the term “Fiscal Years” means, collectively, each of said Fiscal Year;

(k) “Guarantee Reserve Account” means the account referred to in Section 2.02 (c) of the RoP Grant Agreement;

(l) “Guarantee Reserve Escrow Agreement” means the agreement to be entered into between Recipient, LGUGC and the Escrow Agent, satisfactory to the Bank, in accordance with Section 2.02 (c) of the RoP Grant Agreement, for the management of the Guarantee Reserve Account, Interest Income Account and Guarantee Revenue Account;
(m) “Guarantee Revenue Account” means the account referred to in paragraph 1 (b) (iii) of Schedule 6 of the RoP Grant Agreement;
(n) “Interest Income Account” means the account referred to in paragraph 1 (a) (ii) of Schedule 6 of the RoP Grant Agreement;
(o) “LGUGC Project Management Office” and the acronym “LGUGC-PMO” mean the Project management office established within LGUGC on January 29, 2004, and to be maintained for purposes of the carrying out of Parts A and B.1 of the Project;
(p) “National Electrification Administration” and the acronym “NEA” mean the Government-owned and controlled corporation established under the NEA Charter (Presidential Decree No. 269 of August 6, 1973, as amended), and any successor thereto;
(q) “Operations Manual” means the manual, satisfactory to the Bank, adopted by LGUGC pursuant to paragraph 4 of Schedule 1 to the Project Agreement, to assist LGUGC in the implementation of Parts A and B.1 of the Project, and setting forth the specific policies and procedures for the implementation of Parts A and B.1 of the Project, through the description of, inter alia, reporting requirements, accounting procedures, Project performance indicators, terms and conditions for credit guarantees, and the criteria for credit guarantee eligibility, all in agreement with the provisions of this Agreement and the Project Agreement, as such manual may be amended by LGUGC from time to time with the prior agreement of the Bank;
(r) “Peso” means the currency of the Recipient;
(s) “Project Agreement” means the agreement dated May 5, 2004, between the Bank and LGUGC, as such agreement may be amended from time to time; and such term includes all schedules and agreements supplemental to the Project Agreement;
(t) “Project Supervisory Committee” or “PSC” means the committee established in accordance with paragraph 2 of Schedule 4 of the RoP Grant Agreement;
(u) “Special Account” means the account referred to in Section 2.02 (b) of the RoP Grant Agreement;
(v) “Sub-project” means a project for the upgrade of power distribution systems at an Electric Cooperative; and
(w) “Technical Working Group” or “TWG” means the group established in accordance with paragraph 3 of Schedule 4 of the RoP Grant Agreement;

ARTICLE 2

APPOINTMENT AS GUARANTEE PROGRAM MANAGER

The Recipient hereby appoints LGUGC as the exclusive Guarantee Program Manager for purposes of implementing Parts A and B.1 of the Project.
ARTICLE 3

RESPONSIBILITIES OF THE GUARANTEE PROGRAM MANAGER

As program manager, LGUGC shall perform the following principal guarantee program operations and management program functions:

(i) Originate loan guarantee transactions;
(ii) Monitor and administer the guaranteed loans for loan performance;
(iii) Monitor guaranteed loans for energy savings and emissions reductions performance;
(iv) Conduct program marketing campaign;
(v) Recruit and engage new lenders in the EC lending market;
(vi) Manage related technical assistance activities;
(vii) Oversee the Guarantee Reserve, Guarantee Revenue and Interest Income Accounts;
(viii) Provide program reports to the PSC and the Bank;
(ix) Conduct mid-term and final program evaluations against targets; and
(x) Provide liaison with other key market stakeholders;

ARTICLE 4

ESCROW ACCOUNTS

LGUGC shall oversee the investment of the funds in the Escrow Accounts in accordance with the provisions of the Guarantee Reserve Escrow Agreement attached as Schedule 4 of this Agreement. The Escrow Accounts shall consist of the following:

(i) Guarantee Reserve Account – this is a dollar-denominated account and shall be funded as follows:

(a) the amount of US DOLLARS: FIVE MILLION (USD $5,000,000.00) to be delivered to the Escrow Agent by the Recipient upon the disbursement of the GEF Trust Fund Grant;

(b) the amount of US DOLLARS: FIVE MILLION (USD $5,000,000.00) to be delivered to the Escrow Agent by the Recipient when the Guarantee Program Manager has undertaken a total of USD$4 million equivalent in guarantees; and

(c) all monies recovered by the Guarantee Program Manager as a result of recovery and legal actions involving loss and borrower default, net of eligible recovery costs incurred by LGUGC, as validated by the PSC. For this purpose, "eligible recovery costs" shall mean all expenses related to collections whether by judicial or extra-judicial means.

(ii) Interest Income Account – this is a dollar-denominated account and shall be funded by all income or interest earned on investments from the Guarantee Reserve Account and Interest Income Account.
(iii) Guarantee Revenue Account – this is a peso-denominated account and shall be funded as follows:

(a) all income, including guarantee and operating income from loan guarantees under the EC-PCG received by LGUGC, excluding processing fees that accrue to LGUGC;
(b) any reimbursement under Part B2 of the Project; and
(c) income from investments of the Guarantee Revenue Account.

ARTICLE 5

PROJECT SUPERVISORY COMMITTEE

The Project Supervisory Committee shall be constituted and maintained by the Recipient during the effectivity of this Agreement. It shall be co-chaired by representatives each from the RoP-Department of Energy and Department of Finance, with representatives each from LGUGC and the Escrow Agent, the latter as non-voting member. It shall likewise provide over-all policy guidance and oversight of institutional reforms and approve the annual budgets of LGUGC under this Agreement.

ARTICLE 6

TECHNICAL WORKING GROUP

The Technical Working Group shall also be constituted and maintained by the Recipient during the effectivity of this Agreement. It shall be co-chaired by representatives each from the RoP-Department of Energy and Department of Finance, with representatives each from LGUGC and the Escrow Agent as members. It shall serve as the secretariat of the Project Supervisory Committee, be responsible for overall coordination and supervision of Project implementation, and shall have such powers, organization and funding as shall be required to enable it to carry out its responsibilities.

ARTICLE 7

THE EC – PARTIAL CREDIT GUARANTEE PROGRAM (EC-PCG)

7.01 LGUGC hereby undertakes to manage the EC - Partial Credit Guarantee Program (EC-PCG) in accordance with the policies and guidelines set forth in the Operations Manual attached as Schedule 3 of this Agreement. The major features of the EC-PCG are:

(i) Guarantee Reserve Account – The funds in Guarantee Reserve Account shall be used by LGUGC to pay guarantee claims substantially in accordance with the Guarantee Reserve Escrow Agreement in the form of Schedule 4 of this Agreement.
(ii) Leverage Ratio – The leverage ratio of outstanding guarantees committed to the Guarantee Reserve Account shall be within the approved business plan which shall not exceed 5:1.

(iii) Guarantee Coverage – The guarantee coverage shall be partial, up to a maximum of 80% of the outstanding principal and interest.

(iv) Fees – The guarantee fee shall be determined on a case-to-case basis which shall be computed based on the guarantee coverage. The indicative guarantee fee is 1.25%, exclusive of taxes. A processing fee of at least 1.5%, exclusive of taxes, shall be assessed and collected upfront based on the guaranteed portion of the principal loan amount which shall accrue directly to LGUGC.

(v) Guarantee Term – The term of the guarantee shall not exceed 10 years.

(vi) Guarantee Call – Calls on the guarantee may be made in accordance with the default provisions to be agreed between the Guarantor and the lenders.

(vii) Recovered Monies and Recovery Costs – Recovered monies shall be applied first to recovery costs. Net recovered monies will be deposited in the Guarantee Reserve Account.

(viii) Environmental and Social Policy Safeguard – Part of the borrower eligibility criteria shall be the compliance of the borrower with the Bank’s environmental and social policy safeguard, namely Environmental Policy Framework, Policy Framework: Land Acquisition, Resettlement and Rehabilitation of Displaced Persons, and Project Policy Framework on Indigenous Peoples which were adopted by the Recipient on January 7, 2004 and adopted by LGUGC on January 26, 2004.

7.02 In case the cumulative amount of guarantee payments equals or exceeds One Million Five Hundred Thousand US Dollars (US$1,500,000), LGUGC shall prepare an action plan satisfactory to the Recipient and the Bank for the reduction of future guarantee claims.

7.03 In case the cumulative amount of guarantee payments equals or exceeds Three Million US Dollars (US$3,000,000), LGUGC shall suspend the issuance of new loan guarantees until the Bank, in agreement with the Recipient, authorizes the resumption of the issuance of loan guarantees.

7.04 LGUGC shall submit annual budgets for program operations for the approval of the Project Supervisory Committee. The sources of funds for these budgets shall include the: (i) Bank’s grant, (ii) LGUGC’s counterpart funds, (iii) guarantee fees, (iv) interest income of the Guarantee Revenue Account, and (iv) Interest Income Account.

7.05 As the Guarantee Program Manager, LGUGC declares its commitment to the objectives of the Project and the attainment of the performance indicators set forth in Schedule 5 of this Agreement.

ARTICLE 8

OBLIGATIONS OF THE RECIPIENT

The Recipient shall:
(i) establish, in a commercial bank, a Guarantee Reserve Account, an Interest Income Account and a Guarantee Revenue Account, in the name of the Recipient and for the purpose of implementing Part A of the Project;

(ii) deposit all interest and investment income derived from the Guarantee Reserve Account directly into the Interest Income Account;

(iii) assign exclusively to LGUGC the management of the Guarantee Reserve Account, the Interest Income Account and the Guarantee Revenue Account and the authority to appoint signatories to the said accounts; and

(iv) subject to Article 9 hereof, assign to the Escrow Agent the fiduciary obligations relating to the administration of receipt, investment and disbursement of the funds in the Guarantee Reserve Account, the Interest Income Account and the Guarantee Revenue Account, and authorize the Escrow Agent through LGUGC to withdraw from the Interest Income Account, and, if funds are insufficient, from the Guarantee Reserve Account, the fee specified in the Guarantee Reserve Escrow Agreement;

ARTICLE 9

OBLIGATIONS OF LGUGC

9.01 LGUGC shall:

(i) maintain its legal status as a commercial corporate entity in accordance with all applicable laws of the Philippines, and remain financially solvent;

(ii) manage and use the proceeds of the Guarantee Reserve Account, the Interest Income Account and the Guarantee Revenue Account in a manner consistent with the purposes and objectives of the RoP Grant Agreement and the provisions of the Project Agreement;

(iii) deposit into the Guarantee Revenue Account:

(A) all income, including guarantee and operating income from loan guarantees under Part A of the Project, but excluding processing fees that accrue to LGUGC under Part A of the Project;

(B) any reimbursement under Part B.1 of the Project;

(iv) act prudently and reasonably in:

(A) conducting all of its commercial activities; and

(B) exercising its management obligations in respect of the Guarantee Reserve Account, Interest Income Account and Guarantee Revenue Account;

(v) prevent and avoid the commission of fraud, corruption, conflict of interest, waste, recklessness or negligence upon the use of funds in the respective Guarantee Reserve Account, Interest Income Account and Guarantee Revenue Account;
(vi) fully cooperate with the Recipient and the Bank in the Bank’s carrying out of the Bank’s supervision activities in respect of the Project;

(vii) promptly refund to the Bank, any withdrawals or payments from the respective Guarantee Reserve Account, Interest Income Account or Guarantee Revenue Account, including any investment income generated therefrom, at the option of the Bank, if:

(A) the Bank determines that any such withdrawals or payments were used for any expenditure inconsistent with the objectives of the Project or for expenditures other than those set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(B) expenditures from the respective Guarantee Reserve Account, Interest Income Account or Guarantee Revenue Account were made in the territories of any country which is not a member of the Bank, or for goods procured in, or services supplied from such territories; or on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; or

(C) expenditures from the respective Guarantee Reserve Account, Interest Income Account or Guarantee Revenue Account are determined by the Bank to have been made under a contract involving corrupt or fraudulent practices of either representatives of the Recipient or LGUGC during the procurement or execution of such contract, without the Recipient or LGUGC having taken timely and appropriate action satisfactory to the Bank to remedy the situation;

(viii) promptly deposit subrogation recoveries, net of eligible recovery costs incurred by LGUGC, as defined in Schedule 3 hereof, upon conversion to United States Dollars, into the Guarantee Reserve Account;

(ix) make withdrawals from:

(A) the respective Guarantee Reserve Account, Interest Income Account and Guarantee Revenue Account for payments made in accordance with a call on a guarantee issued by LGUGC under Part A of the Project as a result of a default on a loan for which the provider of said loan is unable to secure satisfaction of said loan in accordance with the relevant guarantee agreement; and

(B) the Guarantee Revenue Account for eligible operating costs of LGUGC, eligible expenditures for goods, technical assistance, training, study tours, and workshops under Part B.1 of the Project and audit expenditures, within the annual budget approved by the Recipient, through the Project Supervisory Committee, for such expenditures;

(x) prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Part A of the Project;

(xi) commencing with the fiscal year in which the GEF Trust Fund Grant becomes effective and including the fiscal year in which the last withdrawal from the GEF Trust Fund Grant Account is made, have the financial statements referred to in subparagraph (x) above for each such fiscal year or other period agreed to
by the Bank, audited, in accordance with consistently applied auditing standards, acceptable to the Bank, by independent auditors acceptable to the Bank;

(xii) furnish to the Bank, through the Recipient, as soon as available, but in any case not later than six (6) months after the end of each such year or such other period agreed to by the Bank, (A) certified copies of the financial statements referred to in subparagraph (x) above for such year or such other period agreed to by the Bank, as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank;

(xiii) furnish to the Bank, through the Recipient, such other information concerning such records and accounts and the audit of such financial statements, and concerning said auditors, as the Bank shall have reasonably requested;

(xiv) carry out the following with respect to expenditures funded with withdrawals from the respective Guarantee Reserve Account, Interest Income Account and Guarantee Revenue Account:

(A) retain, until at least one year after the Bank has received the audit report for or covering the fiscal year in which the last withdrawal from the GEF Trust Fund Grant Account was made and deposited into the Guarantee Reserve Account, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

(B) retain for at least one year after the Closing Date of the Project, all records evidencing such expenditures; and

(C) ensure that such statements of expenditure are included in the audit for each fiscal year, or other period agreed to by the Bank, referred to in subparagraph (B) above;

(xv) prepare and furnish to the Bank, through the Recipient, for the Bank’s review and approval, a Financial Management System Manual prior to the execution of this Agreement, which Manual, inter alia, sets forth its financial management operations, control and procedures in respect of the Guarantee Reserve Account, Interest Income Account and Guarantee Revenue Account;

(xvi) within thirty (30) days of a guarantee call payment, provide to the Recipient a written report indicating the reasons for the default, its recovery plan, and its assessment of the probability of recovery of the amounts in default; and thereafter implement the recovery plan as so approved by the Recipient and, if any amounts are determined by LGUGC to be irrecoverable, obtain the approval of the Recipient to write off such amounts;

(xvii) remit payment into the Guarantee Reserve Account if a guarantee call payment is deemed by the Recipient to be unwarranted, for the amount of said payment; and

(xviii) perform all of its obligations under this Agreement to the satisfaction of the Recipient and the Bank.

9.02 The scope of LGUGC’s technical assistance activities shall be as set forth in Schedule 3 hereof.

9.03 LGUGC shall obtain the approval of the Bank for the first four Sub-projects selected to be approved for a partial credit guarantee and the first Sub-project with an
investment management contract to be approved for a partial credit guarantee, prior to entering into said guarantee agreements.

9.04 LGUGC shall use the proceeds of the Guarantee Reserve Account, the Interest Income Account and the Guarantee Revenue Account for the fulfillment of the purposes of this Agreement:

(i) in accordance with the provisions of the Operations Manual; and

(ii) consistent with the RoP Grant Agreement, the Project Agreement and the objectives of the Project.

9.05 LGUGC shall maintain the leverage ratio of outstanding guarantees committed to the Guarantee Reserve Account within the approved business plan, but in no case shall exceed 5:1.

ARTICLE 10

PROCESSING FEE

10.01 As Guarantee Program Manager, LGUGC shall be entitled to a Processing Fee of at least 1.5%, exclusive of taxes, collected front-end based on the guaranteed portion of the principal amount of the loan.

10.02 LGUGC shall cause the lender-accredited bank to deduct the Processing Fee from the initial loan proceeds and remit the same directly to LGUGC.

ARTICLE 11

EXIT STRATEGY

As agreed with the Bank, the Recipient may keep in perpetuity the grant proceeds disbursed to it under the Guarantee Reserve Account but only for the purposes of: (i) continuing EC-PCG; or (ii) using such funds in a manner satisfactory to the Bank and in accordance with a plan provided to the Bank by December 31, 2010 for the future use of such funds. The Project Supervisory Committee shall provide the said plan which shall define the utilization of the aggregate amounts in the Guarantee Revenue, Guarantee Reserve and Interest Income Accounts which are in excess of the Program’s contingent liabilities.

ARTICLE 12

TERM

Unless extended by the written agreement of the parties, this Agreement shall be effective from the date of execution hereof until the Closing Date, December 31, 2011. This is without prejudice to any rights and obligations of the parties which had arisen and remain outstanding prior to closing date.
ARTICLE 13
TERMINATION

13.01 This Agreement may be terminated prior to the expiration of the Term upon the occurrence of one or more of the following events:-

(i) this Agreement, or any provision thereof, is abrogated, amended, assigned, repealed, suspended, or waived by the Recipient or LGUGC, without the agreement of the Bank, and such abrogation, amendment, assignment, repeal, suspension, or waiver materially and adversely affects the ability of the Recipient or LGUGC to perform any of their respective obligations under this Agreement, the RoP Grant Agreement or the Project Agreement;

(ii) any authority having lawful jurisdiction shall have taken any action for the dissolution of LGUGC, or for the suspension of each of its operations, and such dissolution or suspension shall materially and adversely affect the ability of LGUGC to carry out its obligations under this Agreement or the Project Agreement;

(iii) LGUGC becomes technically insolvent;

(iv) LGUGC fails to fulfill any of its obligations under this Agreement or the Project Agreement; or

(v) the Articles of Incorporation or By-laws of LGUGC are abrogated, amended, assigned, repealed, suspended, or waived in a manner which, in the opinion of the Bank, would materially and adversely affect the ability of: (i) the Recipient to effectively implement its obligations under the GEF Trust Fund Grant Agreement or this Agreement; or (ii) LGUGC to effectively carry out its obligations under this Agreement or the Project Agreement.

13.02 The termination of this Agreement under this Article releases and relieves the terminating party from any future obligations and rights to the other party (except where this Agreement provides that a provision of this Agreement will survive termination) but is without prejudice to any rights and obligations of the parties which had arisen and remain outstanding prior to such termination. The rights of termination granted under this Article shall not be in substitution for, but shall be in addition to, any and all rights and remedies for breach of contract and other causes of action granted by applicable provisions of law.

ARTICLE 14
GOVERNING LAW AND WAIVER OF IMMUNITY

14.01 The laws of the Republic of the Philippines shall govern the validity, construction and performance of this Agreement.

14.02 The Recipient hereby waives any immunity from suit.
ARTICLE 15

NOTICE

Any notice required to be given under this Agreement shall be in writing and shall be deemed to have been effectively given (i) when personally delivered, (ii) seven (7) working days after being sent by registered or certified airmail, postage prepaid and return receipt requested, or (iii) when sent by facsimile, telex or telegraph, in each such case addressed as follows, or to such other address as either LGUGC or the Recipient may subsequently designate by notice to the other:

Recipient : Department of Finance
Department of Finance Building
Bangko Sentral Complex
Roxas Boulevard
Manila, Republic of the Philippines
Attn: Secretary of Finance
Cable Address: SECFIN
Telex: 40268CB-CONF
Fax: (632) 526-9990; (632) 523-9216

Department of Energy
Energy Center, Merritt Road,
Fort Bonifacio, Taguig,
Metro Manila, Republic of the Philippines
Attn: Secretary of Energy
Cable Address:
Telex:
Fax: (632) 840-2067

LGUGC : LGU Guarantee Corporation
28th Floor Antel 2000
121 Valero Street, Salcedo Village
Makati City, Republic of the Philippines
Attn: President/CEO
Fax: (632) 888-4217

ARTICLE 16

CONFIDENTIALITY

16.01 Subject as hereinafter provided the information derived from the implementation of Parts A and B.1 of the Project shall be retained in strict confidence by each party to this Agreement and anyone using it under this Agreement and shall not be disclosed to or used by any other party for any purpose other than the implementation of Parts A and B.1 of the Project.
The information may be disclosed to officers, employees, contractors and sub-contractors of either party and to representatives of shareholders of LGUGC to the extent required in each particular instance for the performance of the duties and obligations under this Agreement provided that in each case appropriate secrecy agreements shall be entered into and such other procedures shall be adopted by each party as may be reasonably required to preserve the confidentiality of and the parties’ proprietary rights in the information and to ensure that the information shall not be utilized except as required for the purpose of implementation of Parts A and B.1 of the Project.

Each party shall take all reasonable steps to prevent any such person from disclosing or using such information except as authorized herein.

16.02 The provisions on Confidentiality of this Agreement shall survive the termination of this Agreement howsoever caused.

ARTICLE 17

MISCELLANEOUS

17.01 The waiver of any of the terms and conditions of this Agreement on any occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasion.

17.02 Except as otherwise provided herein, whenever in this Agreement the approval or agreement of the Recipient or LGUGC is required, such approval or agreement shall be in writing and shall not be unreasonably withheld or be subject to unreasonable conditions.

17.03 LGUGC and the Recipient shall execute and deliver all other appropriate supplemental contracts and other instruments and take any other action necessary to make this Agreement and all of its Schedules fully and legally effective, binding and enforceable as between the parties and as against third parties.

17.04 The headings of the Articles and Sections of this Agreement and all of its Schedules are inserted for convenience only and are not intended to affect the meaning of any of the provisions.

17.05 All Schedules to this Agreement are an integral part of this Agreement and all terms defined in this Agreement and the Schedules shall have the same meaning throughout this Agreement and its Schedules.

17.06 References in this Agreement to Articles, Sections, paragraphs, sub-paragraphs and Schedules are to the Articles, Sections, paragraphs, sub-paragraphs and the Schedules to this Agreement. References to Articles or Section, except where the context otherwise requires, are references to the relevant Article or Section in this Agreement or Article in which the reference appears. References to paragraphs and sub-paragraphs except where the context otherwise requires, are references to the relevant
paragraph or sub-paragraph in the Section or paragraph in which the reference appears.

17.07 In case of conflict between any of the provisions contained in this Agreement, on the one hand, and those set forth in the RoP Grant Agreement, on the other, the provisions of the RoP Grant Agreement shall at all times prevail.

17.08 This Agreement may be executed in one or more counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart and each such counterpart shall constitute an original of this Agreement but all the counterparts shall together constitute one and the same instrument.
IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day, month and year first above written.

The Recipient –

REPUBLIC OF THE PHILIPPINES,
DEPARTMENT OF FINANCE

By:
Juanita D. Amatong
Secretary of Finance

REPUBLIC OF THE PHILIPPINES,
DEPARTMENT OF ENERGY

By:
Vincent S. Perez
Secretary of Energy

LGU GUARANTEE CORPORATION

By:
Jesus G. Tirona
President/CEO

SIGNED IN THE PRESENCE OF:
ACKNOWLEDGMENT

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

BEFORE ME, a Notary Public, for and in the above jurisdiction, this ___ day of ___________, 2004, personally appeared the following:

<table>
<thead>
<tr>
<th>Name</th>
<th>Comm. Tax Cert. #</th>
<th>Date/Place Issued</th>
</tr>
</thead>
</table>
| REPUBLIC OF THE PHILIPPINES,
  DEPARTMENT OF FINANCE     |                   |                   |
| By: Ms. Juanita D. Amatong |                   |                   |
| REPUBLIC OF THE PHILIPPINES,
  DEPARTMENT OF ENERGY      |                   |                   |
| By: Mr. Vincent S. Perez   |                   |                   |
| LGU GUARANTEE CORPORATION  | 00037017          | January 8, 2004; Makati |
| By: Mr. Jesus G. Tirona    | 02661009          | January 24, 2004; Manila |

known to me and to me known to be the same persons who executed the foregoing instrument consisting of ______ pages including this page on which this acknowledgment is written, signed by the parties and their instrumental witnesses on each and every page, and they acknowledge to me that the same is their free and voluntary act, as well as the free and voluntary act of the corporations/entities they represent, they being duly authorized for the purpose.

WITNESS MY HAND SEAL on the date and at the place first above written.

Doc. No.____________;
Page No.____________;
Book No.____________;
Series of 2004


SCHEDULE 1

LGUGC GEF Trust Fund Grant

1. The table below sets forth the Categories of items to be financed out of the proceeds of the GEF Trust Fund Grant for LGUGC, the allocation of the amounts of the GEF Trust Fund Grant to each Category and the percentage of expenditures for items so to be financed in each Category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the GEF Trust Fund Grant Allocated (Expressed in Dollars Equivalent)</th>
<th>% of Expenditures to be Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Goods under Part B.1 of the Project</td>
<td>45,000</td>
<td>100% of foreign expenditures, 100% of local expenditures (ex-factory cost), and 90% of local expenditures for other items procured locally</td>
</tr>
<tr>
<td>(b) Consultants’ services under Part B.1 of the Project:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) audit for FY 04 and FY05</td>
<td>5,000</td>
<td>82% for individual consultants, 87% for consulting firms, and 100% for tax-exempt consultants</td>
</tr>
<tr>
<td>(ii) other</td>
<td>688,000</td>
<td></td>
</tr>
<tr>
<td>(c) Training, study tours and workshops under Part B.1 of the Project</td>
<td>100,000</td>
<td>100%</td>
</tr>
<tr>
<td>(d) Incremental operating costs under Part B.1 of the Project</td>
<td>39,000</td>
<td>80%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>877,000</strong></td>
<td></td>
</tr>
</tbody>
</table>
2. For the purposes of this Schedule, the term:

(a) “foreign expenditures” means expenditures in the currency of any country other than that of the Recipient for goods or services supplied from the territory of any country other than that of the Recipient;

(b) “local expenditures” means expenditures in the currency of the Recipient or for goods or services supplied from the territory of the Recipient;

(c) “tax-exempt consultants” means consultants who are: (i) retained under the Project; and (ii) exempt from the payment of taxes in accordance with the relevant laws of the Republic of the Philippines, as certified by the Recipient’s Department of Finance, in a manner satisfactory to the Bank; and

(d) “incremental operating costs” means reasonable expenditures directly related to the Project, incurred by the Recipient under Part B.1 of the Project (which expenditures would not have been incurred absent the Project), including expenditures for the cost of office supplies, maintenance of equipment, rental of facilities, and travel of Project staff, but excluding salaries of Project staff.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

4. The Bank may require withdrawals from the GEF Trust Fund Grant Account to be made on the basis of statements of expenditure for expenditures for: (a) goods estimated to cost less than $50,000 equivalent per contract; (b) contracts for the employment of consulting firms estimated to cost less than $100,000 equivalent per contract; (c) contracts for the employment of individual consultants estimated to cost less than $50,000 equivalent per contract; (d) training, study tours and workshops; and (e) incremental operating costs, all under such terms and conditions as the Bank shall specify by notice to the Recipient.

5. If the Bank shall have determined at any time that any payment made from the GEF Trust Fund Grant Account was used for any expenditure not consistent with the provisions of this Agreement, the Recipient shall, promptly upon notice from the Bank, refund to the Bank for deposit into the GEF Trust Fund Grant Account, an amount equal to the amount so used or the portion thereof as specified by the Bank.
SCHEDULE 2

Description of the Project

The objective of the Project is to assist the Recipient in promoting energy efficiency improvements for the provision of reliable and least-cost power supply and the reduction of carbon dioxide emissions and other pollutants through commercial lending and private investment in electric cooperatives.

The Project consists of the following parts, subject to such modifications thereof as the Recipient and the Bank may agree upon from time to time to achieve such objectives.

Part A: Partial Credit Guarantee Program

Implementation of a partial credit guarantee program through the establishment of a Guarantee Reserve Account to be made available to LGUGC through a Guarantee Program Implementation Agreement for purposes of: (1) guaranteeing commercial loans to investors, including investment management contractors, in selected electric cooperatives, for the financing of economic power distribution system upgrades; and (2) guaranteeing commercial loans to selected electric cooperatives for the financing of economic power distribution system upgrades.

Part B: Capacity Building and Implementation Support

1. (a) Provision of technical assistance, training, study tours and workshops to LGUGC, financial intermediaries, selected electric cooperatives, and electric cooperatives investors (including investment management contractors), in transactions involving electric cooperatives, including screening of electric cooperatives, development of an economic power distribution system upgrades sub-project pipeline, and carrying out of feasibility studies and appraisal of economic power distribution system upgrades sub-project applications.

(b) Provision of technical assistance to LGUGC for the carrying out of workshops, market promotion, and information dissemination to electric cooperatives, financial intermediaries and investors on the investment management contract mechanism, the electric cooperatives improvement program and the credit guarantee program.

(c) Strengthening the capacity of LGUGC in Project implementation, including the provision of technical assistance, training, study tours, workshops and office equipment.

2. (a) Provision of technical assistance to DOE for the carrying out of periodic reporting, monitoring and evaluation of the credit guarantee program, including the performance of investment management contractors and the service level performance of electric cooperatives, and the carrying out of an assessment of the energy efficiency gains of electric cooperatives from improved access to commercial lending.

(b) Strengthening the capacity of DOE and the NEA in Project implementation, including the provision of technical assistance, training, study tours, workshops and office equipment.

(c) Provision of technical assistance, training and workshops to DOE and the NEA on investment management contract transactions, including the development of bidding documents and contract management.

(d) Provision of technical assistance, training, study tours and workshops to the Energy Regulatory Commission in the preparation of regulations for electric cooperatives and investment management contracts.
(e) Provision of technical assistance, training, study tours and workshops to electric cooperatives in technical, operational and management aspects, including good governance.

The Project is expected to be completed by June 30, 2011.

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SCHEDULE 3

Operations Manual
SCHEDULE 4

Guarantee Reserve Escrow Agreement
### SCHEDULE 5

**Performance Indicators**

<table>
<thead>
<tr>
<th>Performance Indicator</th>
<th>Mid-Term Review</th>
<th>Closing Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cumulative number of loan guarantees issued for Electric Cooperatives</td>
<td>At least 6</td>
<td>At least 15</td>
</tr>
<tr>
<td>Cumulative number of successful investment management contract transactions</td>
<td>At least 3</td>
<td>At least 6</td>
</tr>
<tr>
<td>Cumulative value of loan guarantees issued (US$ millions)</td>
<td>At least 10</td>
<td>At least 24</td>
</tr>
<tr>
<td>Cumulative investment in Electric Cooperatives under the Project (US$ millions)</td>
<td>At least 15</td>
<td>At least 40</td>
</tr>
<tr>
<td>Total number of commercial banks and other private financial institutions providing loans for investments in Electric Cooperatives under the Project</td>
<td>At least 2</td>
<td>At least 4</td>
</tr>
<tr>
<td>Cumulative guarantee claim payments under the Project (US$ millions)</td>
<td>Not more than 1.5</td>
<td>Not more than 3</td>
</tr>
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