



Section III. Bid Data Sheet (BDS)



Bid Data Sheet (BDS)

ITB Clause										
1.1	The Procuring Entity is <i>Philippine International Trading Corporation (PITC)</i> .									
1.2	<p>Procurement of Starter Toolkits for the Implementation of Republic Act 10931 or Universal Access to Quality Tertiary Education Act (UAQTEA) for FY 2019 for the Technical Education and Skills Development Authority (TESDA) under Bid Reference No. GPG-B1-2020-477.</p> <p>Bidders may bid for one, some or all lots, provided that, where applicable, the required number of units is supplied in full and must be of the same brand and model.</p>									
2.0	The Funding Source is from Technical Education and Skills Development Authority (TESDA) per PITC Acknowledgement No. 0952 dated October 10, 2019									
5.1	The bidding is open to authorized Philippine Suppliers/Distributors									
5.2	None of the circumstances mentioned in the ITB Clause exists in this Project.									
5.4	<p>For the procurement of Non-Expendable Supplies: A prospective Bidder must have completed a Single contract of similar nature within last five (5) years from the date of submission and receipt of bids a single competed contract of similar in nature to at least fifty percent (50%) of the ABC of the lot being bid.</p> <p style="text-align: center;">Similar nature shall mean “Basic Tools/Training Tools”.</p>									
7	No further instructions.									
8.1	Subcontracting not allowed.									
8.2	Not applicable									
9.1	<p>The Procuring Entity will hold a Pre-bid Conference for this Project on <u>20 October 2020 (Tuesday), 10:00AM via Zoom.</u></p> <p>Prospective bidders interested to join the Pre-Bid Conference via tele-conference (Zoom) may send request for Zoom Link Password to the bac1secretariat@pitc1973.onmicrosoft.com with the following information together with proof of identity of the attendee a day before the scheduled conference.</p> <table border="1" style="margin-left: auto; margin-right: auto; border-collapse: collapse; width: 80%;"> <tbody> <tr> <td style="padding: 2px;">1. Name of Project</td> </tr> <tr> <td style="padding: 2px;">2. Bid Reference</td> </tr> <tr> <td style="padding: 2px;">3. Activity</td> </tr> <tr> <td style="padding: 2px;">4. Company Name</td> </tr> <tr> <td style="padding: 2px;">5. Address</td> </tr> <tr> <td style="padding: 2px;">6. Name of Representative [maximum of two (2)]</td> </tr> <tr> <td style="padding: 2px;">7. Contact Nos.</td> </tr> <tr> <td style="padding: 2px;">8. Email Address (to which all communications from the Bids and Awards Committee shall be sent)</td> </tr> <tr> <td style="padding: 2px;">9. Scanned Copy or Photo of Proof of Identity (pls attach):</td> </tr> </tbody> </table> <p>For the Pre-Bid Conference, bidders are encouraged to register their authorized technical representatives or personnel who are familiar with the bid requirements and who will prepare the documents for the bidder. Only the registered personnel/s are allowed to attend during zoom meeting.</p>	1. Name of Project	2. Bid Reference	3. Activity	4. Company Name	5. Address	6. Name of Representative [maximum of two (2)]	7. Contact Nos.	8. Email Address (to which all communications from the Bids and Awards Committee shall be sent)	9. Scanned Copy or Photo of Proof of Identity (pls attach):
1. Name of Project										
2. Bid Reference										
3. Activity										
4. Company Name										
5. Address										
6. Name of Representative [maximum of two (2)]										
7. Contact Nos.										
8. Email Address (to which all communications from the Bids and Awards Committee shall be sent)										
9. Scanned Copy or Photo of Proof of Identity (pls attach):										



<p>10.1.</p>	<p>Prospective bidders may request for clarifications on any part of the Bidding Documents. Such a request must be in writing and send via email to the Procuring Entity at the following address at least ten (10) calendar days before the deadline for the submission and receipt of bids:</p> <p>CHAIR Bids and Awards Committee I Philippine International Trading Corporation (PITC) 5thFloor, NDC Building, 116 Tordesillas St., Salcedo Village, 1227 Makati City Email: chairbac1@pitc.gov.ph Telefax: 8892-2149</p> <p><u>Note: Maximum size of email with attachment is six (6) MB only.</u></p>
<p>12.1</p>	<p>A. ELIGIBILITY DOCUMENTS –</p> <p>NOTE: During Bid Submission and Opening, bidder must submit only one (1) set of the Eligibility Documents in triplicate copies regardless of the number of Lots being bid for.</p> <p><u>Class "A" Documents:</u></p> <ul style="list-style-type: none"> (i) Registration Certificate from the Securities and Exchange Commission (SEC) for corporations, or from Department of Trade and Industry (DTI) for sole proprietorship, or from Cooperative Development Authority (CDA) for cooperatives; (ii) Current and Valid Business/Mayor’s Permit issued by the city or municipality where the principal place of business of the prospective bidder is located OR the equivalent document for Exclusive Economic Zones or Areas; <p>In case of recently expired Mayor’s/Business Permits, said permit shall be submitted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit, provided that the renewed permit shall be submitted prior to payment.</p> <ul style="list-style-type: none"> (iii) Valid and Current Tax Clearance per Executive Order 398, Series of 2005 and Revenue Memorandum Order No. 46-2018. (iv) Copy of Audited Financial Statements for 2019 and 2018 (in comparative form or separate reports): <ul style="list-style-type: none"> (a) Independent Auditor’s Report; (b) Balance Sheet (Statement of Financial Position); and (c) Income Statement (Statement of Comprehensive Income). <p>Each of the above statements must have stamped “received” by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions.</p>
<p>12.1</p>	<p><u>OR</u></p> <p><u>Submission of valid and current PhilGEPS Certificate of Registration and Membership (Platinum Registration*) in lieu of items (i), (ii), (iii) and (iv) Eligibility Documents.</u></p> <p>*Note: Bidder must ensure that all Class “A” Eligibility Documents are valid and current at the time of submission of PhilGEPS Certificate of Registration and Membership (Platinum Registration). In case any of the submitted Eligibility Documents are not valid and current at the time of submission of Platinum Registration, bidders are required to submit the valid and current documents including the Audited Financial Statements for 2018 and 2017 (stamped received by the BIR or its duly accredited and authorized institution) together with the Platinum Registration.</p>



In case the bidder opts to submit their Class "A" Documents, the Certificate of PhilGEPS Registration (Platinum Membership) shall remain as a post-qualification requirement to be submitted in accordance with Section 34.2 of the 2016 Revised IRR of RA 9184. "GPPB Circular 07-2017 dated 31 July 2017"

- (v) Statement of all ongoing government and private contracts (including contracts awarded but not yet started), if any whether similar or not in nature and complexity to the contract to be bid. (**Annex I**);
- (vi) Statement of Single Largest Completed Contract similar to the contract to be bid within the last five (5) years from date of submission and receipt of bids equivalent to at least fifty percent (50%) of the total ABC of the lot being bid (**Annex I-A**)

Similar nature shall mean "Basic Tools/Training Tools".

Any of the following documents must be submitted/attached corresponding to listed completed largest contracts per Annex I-A:

- (a) Copy of End User's Acceptance; or
 - (b) Copy of Official Receipt/s; or
 - (c) Copy of Sales Invoice with Collection Receipt/s
- (vii) Duly signed Certificate of Net Financial Contracting Capacity (NFCC) per **Annex II**, in accordance with ITB Clause 5.5 OR Committed Line of Credit per **Annex II-A**.
- a) Should the bidder opt to submit NFCC, computation must be equal to the ABC of the project. The detailed computation using the required formula must be shown as provided for in **Annex II**.

NFCC = [(Current assets minus current liabilities) (15)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be bid.

Notes:

1. The values of the bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR.
2. The value of all outstanding or uncompleted contracts refers to those listed in **Annex I**.
3. The detailed computation must be shown using the required formula provide above.
4. The NFCC computation must at least be equal to the ABC of the project.

OR

- b) Should the bidder opt to submit a committed Line of Credit, it must be at least equal to ten percent (10%) of the ABC of the project issued by a Local Universal or Local Commercial Bank. (See sample Bank Form per **Annex II-A**).

Class "B" Document: (For Joint Venture)

The participating entities entering a Joint Venture Agreement (JVA) are to be treated as a single entity and shall be jointly and severally responsible or liable for the obligations and liabilities incurred by any partner to the JV pertinent to the project requirements.

Hence, any Blacklisting Order and/or overdue deliveries intended for end-user or PITC shall apply to the JVA as the JV is deemed as one bidder.

**a) For Joint Ventures, Bidder to submit either:**

- (i) Copy of the JOINT VENTURE AGREEMENT (JVA) in case the joint venture is already in existence, or
- (ii) Copy of Protocol/Undertaking of Agreement to Enter into Joint Venture signed by all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful. (**Annex III**)
In case the joint venture is not yet in existence, the submission of a valid JVA shall be within ten (10) calendar days from receipt by the bidder of Notice of Award (NOA) [Sec 37.1.4 (a) (i) of the 2016 Revised IRR of RA 9184]

The JVA or the Protocol/Undertaking of Agreement to Enter into Joint Venture (Annex III) must include/specify the company/partner and the name of the office designated as authorized representative of the Joint Venture.

b) Each JV Partner must submit the following:**Local JV Partner**

- (i) Registration Certificate from the Securities and Exchange Commission (SEC) for corporations or from Department of Trade and Industry (DTI) for sole proprietorship, or from Cooperative Development Authority (CDA) for cooperatives;
- (ii) Valid and Current Business/Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located **OR** the equivalent document for Exclusive Economic Zones or Areas;
- (i) Valid and Current Tax Clearance per Executive Order 398, Series of 2005 and Revenue Memorandum Order No. 46-2018.
- (iii) Copy of each of the following Audited Financial Statements for 2019 and 2018 (in comparative form or separate reports):
 - a) Independent Auditor's Report;
 - b) Balance Sheet (Statement of Financial Position); and
 - c) Income Statement (Statement of Comprehensive Income)

Each of the above statements **must have stamped "received"** by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions.

Foreign JV Partner

- (i) Valid and current certificate/license/authority to conduct/operate business issued by the regulatory authority in the country where the bidder is based. (If not in English, a translation of the document must be submitted duly certified/authenticated by the foreign bidder/s appropriate embassy or consulate in the Philippines;
- (ii) Valid and Current Tax Clearance per Executive Order 398, Series of 2005 and Revenue Memorandum Order No. 46-2018, as finally reviewed and approved by the BIR.
- (iii) Corporate Financial Statement or Annual Report for 2019 or 2018.

OR

Submission of valid and current **PHILGEPS Certificate of Registration and Membership (Platinum Registration*) together with Annex A.**



	<p>*Note: Bidder must ensure that all Class “A” Eligibility Documents are valid and current at the time of submission of PhilGEPS Certificate of Registration and Membership (Platinum Registration). In case any of the submitted Eligibility Documents are not valid and current at the time of submission of Platinum Registration, bidders are required to submit the valid and current documents.</p> <p>For Local JV Partner: Audited Financial Statements for 2019 and 2018 (stamped received by the BIR or its duly accredited authorized institutions) together with the Platinum Registration.</p> <p>For Foreign JV Partner: Corporate Financial Statement or Annual Report for 2019 or 2018.</p> <p>In case the JV Partners opt to submit their Class “A” Documents, the Certificate of PhilGEPS Registration (Platinum Membership) shall remain as a post-qualification requirement to be submitted in accordance with Section 34.2 of the 2016 Revised IRR of RA 9184. “GPPB Circular 07-2017 dated 31 July 2017”.</p> <p>For other required Class “A” Eligibility Documents, submission by any of the partner(s) constitutes collective compliance.</p>
12.1	<p>b) TECHNICAL DOCUMENTS</p> <p>(i) Bid security must be issued in favor of the PHILIPPINE INTERNATIONAL TRADING CORPORATION (PITC) in any of the following forms:</p> <ol style="list-style-type: none"> 1) Bid Securing Declaration per Annex IV (Bidder may submit only one (1) regardless of the number of lots being bid for); 2) Cash or Cashier’s/ Manager’s Check equivalent to at least 2% of the ABC; 3) Bank Guarantee/ Bank draft or Irrevocable LC equivalent to at least 2% of the ABC; <p>OR</p> <ol style="list-style-type: none"> 4) Surety bond callable upon demand equivalent to at least 5% of the ABC <p>Notes:</p> <p>(a) For cash, Manager’s/Cashier’s checks, letters of credit or bank guarantees, separate Bid Security per Lot being bid.</p> <p>(b) The Cashier’s/Manager’s Check shall be issued by a Local Universal or Commercial Bank.</p> <p>(c) The Bank Draft/Guarantee or Irrevocable Letter of Credit shall be issued by a Local Universal or Local Commercial Bank. Separate draft guarantee for each lot being bid.</p> <p>(d) Should bidder opt to submit a Surety Bond as Bid Security, the surety bond must conform with the following:</p> <ol style="list-style-type: none"> (1) Issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such bond. <u>Together with the surety bond, a copy of a valid Certification from Insurance Commission must be submitted by the bidder which must state that the surety or insurance company is specifically authorized to issue surety bonds.</u> (2) Callable upon demand (3) <u>Must specify the grounds for forfeiture of bid security as stated in Section II, ITB Clause 18.5, to wit:</u> <ul style="list-style-type: none"> ▪ IF A BIDDER: <ol style="list-style-type: none"> (i) withdraws its bid during the period of bid validity specified in ITB Clause 17; (ii) does not accept the correction of errors pursuant to ITB Clause 28.3 (b); (iii) has a finding against the veracity of any of the documents submitted as stated in ITB Clause 29.2; or



- (iv) submission of eligibility requirements containing false information or falsified documents;
- (v) submits bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding;
- (vi) allowing the use of one's name, or using the name of another for purposes of public bidding;
- (vii) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the Lowest Calculated and Responsive Bid;
- (viii) refusal or failure to post the required performance security within the prescribed time;
- (ix) refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
- (x) any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor;

- (xi) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
- (xii) all other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reason.

▪ **IF THE SUCCESSFUL BIDDER:**

- (xiii) fails to sign the contract in accordance with ITB Clause 32; or
- (xiv) fails to furnish performance security in accordance with ITB Clause 33

- (ii) Duly signed and completed Technical Bid Form (**Annex V-A**);
- (iii) Duly signed/conformed TESDA Terms of Reference (TOR);

SECTOR	ANNEX
AGRICULTURE, FORESTRY, AND FISHERY	Annex V-B1
AUTOMOTIVE AND LAND TRANSPORT	Annex V-B2
GENERAL INFRASTRUCTURE	Annex V-B3
ELECTRICAL AND ELECTRONICS	Annex V-B4
GARMENTS AND TEXTILES	Annex V-B5
HEATING, VENTILATION, AIR-CONDITIONING AND REFRIGERATION	Annex V-B6
INFORMATION AND COMMUNICATION TECHNOLOGY	Annex V-B7
METALS AND ENGINEERING	Annex V-B8
PROCESSED FOOD AND BEVERAGES	Annex V-B9
HEALTH, SOCIAL AND OTHER COMMUNITY DEVELOPMENT SERVICES	Annex V-B10
TOURISM	Annex V-B11



	<p>(iv) Notarized Affidavit of Undertaking for the Annex B (Lot Specification), Annex C (Distribution Matrix) and Annex D (Delivery Address for the Distribution of Toolkits per Region) of the Terms of Reference, (Annex V-C of the Bidding Documents).</p> <p>(v) Certificate of Performance Evaluation (Annex VI) with a rating of Very Satisfactory issued by the Largest Contract/s Client/s of the bidder per submitted Annex I-A.</p> <p>(vi) Proof of Authority of the bidder’s authorized representative/s:</p> <ol style="list-style-type: none"> 1. FOR SOLE PROPRIETORSHIP (IF OWNER OPTS TO APPOINT A REPRESENTATIVE): Duly notarized Special Power of Attorney 2. FOR CORPORATIONS, COOPERATIVE OR THE MEMBERS OF THE JOINT VENTURE: Duly notarized Secretary’s Certificate evidencing the authority of the designated representative/s. <p>IN THE CASE OF UNINCORPORATED JOINT VENTURE: Each member shall submit a separate Special Power of Attorney and/or Secretary’s Certificate evidencing the authority of the designated representative/s.</p> <p>(vii) Omnibus Sworn Statements using the form prescribed (Annex VII).</p> <ol style="list-style-type: none"> (a) Authority of the designated representative (b) Non-inclusion in blacklist or under suspension status (c) Authenticity of Submitted Documents (d) Authority to validate Submitted Documents (e) Disclosure of Relations (f) Compliance with existing labor laws and standards (g) Bidders Responsibilities (h) Did not pay any form of consideration
13.1 (a)	<p>Completed and signed Financial Bid Form (Annex VIII). Bidder must use, accomplish and submit corresponding Financial Bid Form for lot being bid for.</p> <p>The ABC is inclusive of VAT. Any proposal with a financial component exceeding the ABC shall not be accepted.</p>
13.1(b)	<i>No further instruction.</i>
13.1 (c)	<i>No further instruction.</i>
13.2 (a)	The ABC is inclusive of VAT. Any bid exceeding the ABC per component of the lot shall not be accepted.
13.2 (b)	<i>No further instruction.</i>
15.4(a) (iv)	<i>No further instruction.</i>
15.4(b) (i)	<i>No further instruction.</i>
16.1(b) (ii)	<i>No further instruction.</i>
16.1 (b)	The Bid Prices for Goods supplied from outside the Philippines shall be quoted in the Philippine Pesos.
16.3	<i>No further instruction.</i>



17.1	The bids will be valid for one hundred twenty (120) calendar days from the date of opening of bids.
18.1	<p>Bid security must be issued in favor of the PHILIPPINE INTERNATIONAL TRADING CORPORATION (PITC)</p> <ol style="list-style-type: none"> 1) Bid Securing Declaration per Annex IV; 2) Cash or Cashier's/ Manager's Check* equivalent to at least 2% of the ABC of the lot; 3) Bank Guarantee/ Bank draft or Irrevocable LC equivalent to at least 2% of the ABC of the lot; OR 4) Surety bond** callable upon demand equivalent to at least 5% of the ABC of the lot. <p>* Separate Bid Security per Lot. **Only those issued and confirmed by a Local Universal or Local Commercial Bank ***Must be callable upon demand issued by a Surety or Insurance Company duly certified by the Insurance Commission as authorized to issue such bond</p>
18.2	The bid security shall be valid for one hundred twenty (120) calendar days from the date of opening of bids.
19.5	Bidders must sign or initial each and every interlineation, erasure, overwriting and correction made on their bids. Failure to do so shall result in the invalidation and rejection of their bids.
20.2 and 20.3	<p>Each Bidder shall submit the following in one (1) big envelope duly labeled containing two sets of envelopes;</p> <p>First envelope must contain three (3) copies of Eligibility and Technical documents duly marked as "Original Copy", "Duplicate Copy" and "Triplicate Copy".</p> <p>Second envelope must contain three (3) copies of Financial documents duly marked as "Original Copy", "Duplicate Copy" and "Triplicate Copy".</p> <p>NOTE: Financial Bid Form for each lot must be put in separate sealed folders (in Triplicate copies) duly marked.</p> <p>All envelopes and folders must be labeled as specified below</p>
20.4	<p>All envelopes shall:</p> <ol style="list-style-type: none"> (a) contain the name of the contract to be bid in capital letters; (b) bear the name and address of the Bidder in capital letters; (c) be addressed to the Procuring Entity's BAC in accordance with ITB Clause 1.1; (d) bear the specific identification of this bidding process indicated in the ITB Clause 1.2; and (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with ITB Clause 21.



	<p>TO : THE BIDS AND AWARDS COMMITTEE I PHILIPPINE INTERNATIONAL TRADING CORPORATION</p> <p>FROM : _____ (Name of Bidder in Capital Letters)</p> <p>ADDRESS: _____ (Address of Bidder in Capital Letters)</p> <p>PROJECT : PROCUREMENT OF STARTER TOOLKITS FOR THE IMPLEMENTATION OF REPUBLIC ACT 10931 OR UNIVERSAL ACCESS TO QUALITY TERTIARY EDUCATION ACT (UAQTEA) FOR FY 2018 FOR THE TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA)</p> <p>LOT NO/s: _____</p> <p>BID REF NO: GPG-B1-2020-476</p> <p>(In Capital Letters, Indicate the Phrase): <u>12 November 2020, Thursday,10:00 AM</u></p>
21	<p>The address for submission of bids is <i>Philippine International Trading Corporation, Ground Floor, NDC Building, 116 Tordesillas St., Salcedo Village, Makati City.</i> The deadline for submission of bids: <u>12 November 2020, Thursday,10:00 AM</u></p>
24.1	<p>The place of bid opening is <i>Philippine International Trading Corporation, 5th Floor Conference Room, NDC Building, 116 Tordesillas St., Salcedo Village, Makati City.</i> The date and time of bid opening is on <u>12 November 2020, Thursday,10:00 AM</u></p>
24.2	<p><i>No further instructions.</i></p>
27.1	<p><i>No further instructions.</i></p>
28.3	<p><i>No further instructions.</i></p>
28.3 (b)	<p>Bid modification is not allowed.</p>
28.4	<p><i>No further instructions.</i></p>
29.2, 29.2(a), 29.2(b), and 29.2(d)	<p>Post Qualification: Within a non-extendible period of five (5) calendar days from receipt by the supplier of the Notice from the BAC that the supplier has the Single/Lowest Calculated Bid (S/LCB), the Supplier shall submit and/or present the following requirements for post qualification:</p> <ol style="list-style-type: none"> 1) Present <u>original copy</u> and submit certified true copy of the following: <ol style="list-style-type: none"> a) Latest Income and Business Tax Returns per Revenue Regulations 3-2005; <i>Tax returns filed through the Electronic Filing and Payments System (EFPS). The latest income and business tax returns are those within the last six months preceding the date of bid submission.</i> b) Valid and current Certificate of PhilGEPS Registration (Platinum Membership); c) PO's or Contracts for all Ongoing Contracts as listed per submitted Annex I d) PO or contract relative to Single Largest Completed Contract per submitted Annex I-A <p><i>(In case of Joint Venture between local companies, both partners must present/submit above items a, b. In case of foreign partner, a is not applicable.)</i></p> 2) Submit original copy of the following: <ol style="list-style-type: none"> a) Company Profile (per Annex IX). Company printed brochure may be included. b) Vicinity map/location of the business.



	<p>3) Present the original copy of the following Eligibility Documents:</p> <ul style="list-style-type: none"> a) Registration Certificate from the Securities and Exchange Commission (SEC) for corporations, Department of Trade and Industry (DTI) for sole proprietorship, or from Cooperative Development Authority (CDA) for cooperatives; b) Valid and Current Business/Mayor’s permit issued by the city or municipality where the principal place of business of the prospective bidder is located OR the equivalent document for Exclusive Economic Zones or Areas; c) Valid and Current Tax Clearance per Executive Order 398, Series of 2005 and Revenue Memorandum Order No. 46-2018. d) End-User’s Acceptance or Official Receipt (duplicate or triplicate copy) relative to Single Largest Completed Contract per submitted Annex I-A, as applicable. <p>4) Additional requirements:</p> <p>To determine the compliance of the items with the requirements of the agency, the actual sample of each item being offered by the bidder together with the Technical Data Sheet will be submitted for purposes of post-qualification within fifteen (15) calendar days from Receipt of Notice to present Prototype. The bidder will have one (1) chance to present such items.</p> <p>If the bidder fails to present the sample of the items being offered by them during the scheduled date of presentation, the Bids and Awards Committee (BAC) has the prerogative to declare the bidder post-disqualified for failure to comply with the requirements.</p> <p><i>In case of Joint Venture between local companies, partners must present/submit items a, b and c. In case of foreign partner, a and b are not applicable.</i></p> <p>As part of Post Qualification, eligibility and technical documents submitted by the S/LCB will be validated and verified. Brochure or Technical Data Sheet or equivalent shall be evaluated to ensure compliance with the required technical specifications.</p> <p>Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award. Should there be a finding against the veracity of any of the documents submitted, the Bid Security shall be forfeited in accordance with Sec. 69 of the IRR of RA 9184.</p>
32.4	<i>No further instructions.</i>
33.1	<i>No further instructions.</i>
33.2	<i>No further instructions.</i>
33.3	<i>No further instructions.</i>
34	<i>No further instructions.</i>
35	<i>No further instructions.</i>



Section IV. General Conditions of Contract (GCC)



General Conditions of Contract (GCC)

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1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the supplies, equipment, machinery, spare parts, other materials and/or general support services which the Supplier is required to provide to the Procuring Entity under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this Section.
- (f) "SCC" means the Special Conditions of Contract.
- (g) "The Procuring Entity" means the organization purchasing the Goods, as named in the **SCC**.
- (h) "The Procuring Entity's country" is the Philippines.
- (i) "The Supplier" means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract and named in the **SCC**.
- (j) The "Funding Source" means the organization named in the **SCC**.
- (k) "The Project Site," where applicable, means the place or places named in the **SCC**.
- (l) "Day" means calendar day.
- (m) The "Effective Date" of the contract will be the date of signing the contract, however the Supplier shall commence performance of its obligations only upon receipt of the Notice to Proceed and copy of the approved contract.
- (n) "Verified Report" refers to the report submitted by the Implementing Unit to the Head of the Procuring Entity setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

2.1. Unless otherwise provided in the **SCC**, the Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Procuring Entity:



(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.
 - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
 - (iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.
 - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
 - (v) "obstructive practice" is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or
 - (bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

2.2 Further the Funding Source, Borrower or Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with any of the practices mentioned in GCC Clause 2.1 (a).



3. Inspection and Audit by the Funding Source

The Supplier shall permit the Funding Source to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

4. Governing Law and Language

- 4.1. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.
- 4.2. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract exchanged by the parties shall be written in English.

5. Notices

- 5.1. Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the **SCC**, which shall be effective when delivered and duly received or on the notice's effective date, whichever is later.
- 5.2. A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the **SCC** for GCC Clause 5.1.

6. Scope of Contract

- 6.1. The GOODS and Related Services to be provided shall be as specified in Section VI. Bidding Forms of this Bidding Documents.
- 6.2. This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned herein. Any additional requirements for the completion of this Contract shall be provided in the **SCC**.

7. Subcontracting

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. If subcontracting is allowed, the Supplier may identify its subcontractor during contract implementation. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under ITB Clause 12 and comply with eligibility criteria specified in the **BDS**. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.



8. Procuring Entity's Responsibilities

- 8.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local public authorities, the Procuring Entity shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 8.2. The Procuring Entity shall pay all costs involved in the performance of its responsibilities in accordance with **GCC** Clause 6.

9. Prices

- 9.1. For given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR or except as provided in this Clause.
- 9.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with **GCC** Clause 29.

10. Payment

- 10.1. Payments shall be made only upon a certification by the Head of the Procuring Entity to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. One percent (1%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in **GCC** Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted pursuant to the **SCC** provision for **GCC** Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to **GCC** Clause 10.2, payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier. Payments shall be in accordance with the schedule stated in the **SCC**.
- 10.4. Unless otherwise specified in the **SCC**, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.
- 10.5. Unless otherwise provided in the **SCC**, payments using Letter of Credit (LC), in accordance with the Guidelines issued by the GPPB, is allowed. For this purpose, the amount of provisional sum is indicated in the **SCC**. All charges for the opening of the LC and/or incidental expenses thereto shall be for the account of the Supplier.



11. Advance Payment

- 11.1. Advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex "D" of RA 9184.
- 11.2. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.
- 11.3. For Goods supplied from abroad, unless otherwise indicated in the **SCC**, the terms of payment shall be as follows:
- (a) On Contract Signature: Fifteen percent (15%) of the Contract Price shall be paid within sixty (60) days from signing of the Contract and upon submission of a claim and a bank guarantee for the equivalent amount valid until the Goods are delivered and in the form provided in Section VIII. Bidding Forms.
 - (b) On Delivery: Sixty-five percent (65%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents (i) through (vi) specified in the **SCC** provisions on Delivery and Documents.
 - (c) On Acceptance: The remaining twenty percent (20%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the Procuring Entity's authorized representative. In the event that no inspection or acceptance certificate is issued by the procuring Entity's authorized representative within forty-five (45) days of the date shown on the delivery receipt, the Supplier shall have the right to claim payment of the remaining twenty percent (20%) subject to the Procuring Entity's own verification of the reason(s) for the failure to issue documents (vii) and (viii) as described in the **SCC** provision on Delivery and Documents.
- 11.4. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.

12. Taxes and Duties

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

13. Performance Security

- 13.1. Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security in any the forms prescribed in the ITB Clause 33.2.
- 13.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.
- 13.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.



13.4. The performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:

- (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;
- (b) The Supplier has no pending claims for labor and materials filed against it; and
- (c) Other terms specified in the **SCC**.

13.5. In case of a reduction of the contract value, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.

14. Use of Contract Documents and Information

14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the Procuring Entity's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

14.2. Any document, other than this Contract itself, enumerated in GCC Clause 14.1 shall remain the property of the Procuring Entity and shall be returned (all copies) to the Procuring Entity on completion of the Supplier's performance under this Contract if so required by the Procuring Entity.

15. Standards

The Goods provided under this Contract shall conform to the standards mentioned in the Section VI. Bidding Forms (Annex VI: Technical Bid Form) and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

16. Inspection and Tests

16.1. The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The **SCC** and Section VII. Technical Specifications shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.

16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity. The Supplier shall provide the Procuring Entity with results of such inspection and tests.



- 16.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Clause 5.
- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

17. Warranty

- 17.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in the **SCC**. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the Contract Price or other such amount if so specified in the **SCC**. The said amounts shall only be released after the lapse of the warranty period specified in the **SCC**; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 17.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC** and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in GCC Clause 17.4, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract and under the applicable law.



18. Delays in the Supplier's Performance

- 18.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity in Section VI. Schedule of Requirements.
- 18.2. If at any time during the performance of this Contract, the Supplier or its Subcontractor(s) should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, and upon causes provided for under GCC Clause 21.2, the Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.
- 18.3. Except as provided under GCC Clause 22, a delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 19, unless an extension of time is agreed upon pursuant to GCC Clause 29 without the application of liquidated damages.

19. Liquidated Damages

Subject to GCC Clauses 18 and 22, if the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, the Procuring Entity shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. Once the amount of liquidated damages reaches ten percent (10%), the Procuring Entity may rescind or terminate the Contract pursuant to GCC Clause 23, without prejudice to other courses of action and remedies open to it.

20. Settlement of Disputes

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4. In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."



20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

21. Liability of the Supplier

21.1. The Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines, subject to additional provisions, if any, set forth in the **SCC**

21.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

22. Force Majeure

22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.

22.2. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Supplier could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Supplier. Such events may include, but not limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

23. Termination for Default

23.1. The Procuring Entity may rescind or terminate a contract for default, without prejudice to other courses of action and remedies available under the circumstances when, outside of *force majeure*, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;

23.2. The Procuring Entity may terminate the contract when, as a result of *force majeure*, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or



- 23.3. The Procuring Entity shall terminate the contract when. The Supplier fails to perform any other obligation under the Contract.
- 23.4. In the event the Procuring Entity terminates this Contract in whole or in part, for any of the reasons provided under **GCC** Clauses 23 to 26, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.
- 23.5. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

24. Termination for Insolvency

The Procuring Entity shall terminate this Contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Supplier.

25. Termination for Convenience

- 25.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The Head of the Procuring Entity may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.
- 25.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:
- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
 - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.
- 25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the Procuring Entity which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the Procuring Entity before recovery may be made.



26. Termination for Unlawful Acts

26.1. The Procuring Entity may terminate this Contract in case it is determined *prima facie* that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:

- (a) Corrupt, fraudulent, and coercive practices as defined in ITB Clause 3.1(a);
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- (d) Any other act analogous to the foregoing.

27. Procedures for Termination of Contracts

27.1. The following provisions shall govern the procedures for termination of this Contract:

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the Head of the Procuring Entity shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
 - (i) that this Contract is being terminated for any of the ground(s) aforementioned, and a statement of the acts that constitute the ground(s) constituting the same;
 - (ii) the extent of termination, whether in whole or in part;
 - (iii) an instruction to the Supplier to show cause as to why this Contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the Head of the Procuring Entity a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the Procuring Entity shall issue an order terminating this Contract;
- (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper to withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the Procuring Entity shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier



of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;

- (g) The Head of the Procuring Entity may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the Procuring Entity; and
- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

28. Assignment of Rights

The Supplier shall not assign his rights or obligations under this Contract, in whole or in part, except with the Procuring Entity's prior written consent.

29. Contract Amendment

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

30. Application

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.



Section V.

Special Conditions of Contract (SCC)



Special Conditions of Contract (SCC)

GCC Clause	
(g) (g)	The Procuring Entity is PHILIPPINE INTERNATIONAL TRADING CORPORATION (PITC)
1.1 (i)	Authorized Philippine Suppliers, Dealers or Reseller or Distributors
1.1 (j)	The Funding Source is from TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA) per PITC Acknowledgement No. 0952 dated October 10, 2020 amounting to Pesos: ₱812,112,773.69
1.1 (k)	The Delivery Site: Various TESDA Regional Offices (Annex V-C for Distribution List)
5.1	<p>The Procuring Entity’s addressee, address and contact person for Notices is:</p> <p>MS. CHRISTABELLE P. EBRIEGA Vice President, Government Accounts Group 5thFlr. PHILIPPINE INTERNATIONAL TRADING CORPORATION, NDC Building, 116 Tordesillas St., Salcedo Village, Makati City</p> <p>Contact Person: JINKY C. APOLINAR Account Head Department 3 (Dept. 3) Tel No. 8818-9801 loc. 356</p>
6.2	Please refer to the Technical Bid Form. (Additional Terms and Conditions of the Contract, if any.)
10.1	<p>Payment is made through corporate check within fifteen (15) calendar days after FULL delivery and acceptance of all items indicated in the Contract and submission of all required documents. All payments are subject to applicable withholding taxes. Partial payment is allowed provided delivery per Region of each lot has been completed and accepted by PITC and TESDA.</p> <p>Documentary requirements for payment are as follows:</p> <ol style="list-style-type: none"> 1. Original and duplicate BIR VAT registered Supplier’s Invoice issued under the name of the Technical Education and Skills Development Authority (TESDA) indicating PITC Contract Number. All entries in the Invoice must be typewritten or computer printed; 2. Original and duplicate Delivery Receipt issued under the name of TESDA duly acknowledged and received by PITC’s authorized representative; 3. Certification from TESDA that the following documents were submitted and/or complied by the Supplier: <ol style="list-style-type: none"> a. Operations Manual in English per unit for each Lot (As applicable); b. Warranty Certificate issued under the name of TESDA, for technical and maintenance support (Period and Item is indicated in the Annex B (Lot Specification) of the TOR – provided in a CD) 4. Original Certificate of Acceptance issued by Regional Director/s of TESDA and authorized representatives of PITC; 5. As applicable, certified true copies of pertinent tax receipts and duties paid on the imported parts/equipment pursuant to COA Memo No. 90-684 dated Dec. 5, 1990/Administrative Order No. 200 dated December 20, 1990. For locally purchased materials, the BIR registered sales invoice of the seller is acceptable.



13.1	Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security in the following forms:	
	Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
	(a) Cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)
	(b) Bank draft/guarantee issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(c) Surety bond callable upon demand	Thirty percent (30%)	
16.1	For acceptance, all delivered equipment shall be subjected to actual acceptance testing procedure as specified under the Terms of Reference of TESDA.	
17.3	<p>In order to assure that the manufacturing defects shall be corrected by the supplier, the warranty period for this project is one (1) year on parts and service, replace defective unit with brand new unit. Warranty Period shall commence from the date of acceptance by the end user after functional inspection and testing.</p> <p>The warranty shall cover full replacement of defective items, free of charge, including labor, spare parts and materials.</p> <p>The obligation for the warranty for each item being bid shall be covered either of the following :</p> <p>(a) Retention Money equivalent to 1% of the total contract or (b) Special Bank Guarantee equivalent to 10% of the total contract</p> <p>Retention of one percent (1%) of the total contract price will be withheld for the first twelve (12) months of the warranty period. However, retention money can be released provided a Special Guarantee or Standby LC issued by a local commercial bank equivalent to the 1% retention money is submitted and that the supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.</p> <p>The remaining warranty shall be covered by a Paper Warranty.</p>	
17.4	The period for correction of defects in the warranty period is within fifteen (15) calendar days after receipt of Notice of Defects.	
19	<p>The applicable rate is one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay.</p> <p>The maximum deduction shall be ten percent (10%) of the amount of contract. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, the procuring entity shall rescind the contract, without prejudice to other courses of action and remedies open to it.</p>	
20.4	In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."	
21.1	No additional provision, <i>however</i> , all partners to the joint venture shall be jointly and severally liable to the Procuring Entity."	