



PHILIPPINE INTERNATIONAL TRADING CORPORATION

National Development Company (NDC) Building, 116 Tordesillas Street, Salcedo Village, 1227 Makati City

**MARINE ENGINEERING UPGRADE OF
BRP ARTEMIO RICARTE PS37
FOR THE PHILIPPINE NAVY (PN)**

Bid Reference No. MPG-B1-2018-420

Approved Budget for the Contract – ₱ 203,883,495.14

BIDS AND AWARDS COMMITTEE I

DECEMBER 2018



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Section I. Invitation to Bid



INVITATION TO BID

**MARINE ENGINEERING UPGRADE OF BRP ARTEMIO RICARTE PS 37
FOR THE PHILIPPINE NAVY (PN)-ONE (1) LOT**

Bid Reference No. MPG-B1-2018-420

Approved Budget for the Contract: ₱ 203,883,495.14

1. The **Philippine International Trading Corporation (PITC)** and the **Philippine Navy (PN)** intend to apply the sum of **PESOS: Two Hundred Three Million Eight Hundred Eighty-Three Thousand Four Hundred Ninety-Five and 14100 (₱ 203,883,495.14) (Inclusive of VAT)** being the **Approved Budget for the Contract (ABC)** to payment under the contract for the **Marine Engineering Upgrade of BRP Artemio Ricarte PS 37 for the Philippine Navy (PN)-One (1) Lot**, more particularly described as follows:

Description	Quantity	ABC (₱) (VAT Inclusive)	Funding Source	Bid Security in any of the following forms:	Cost/Price of Bid Documents (cash payment only) (₱)
Marine Engineering Upgrade of BRP Artemio Ricarte PS 37 with the following works:				<ul style="list-style-type: none"> • Bid Securing Declaration • Cash or Cashier's/ Manager's Check* equivalent to at least 2% of the ABC • Bank Guarantee/ Bank draft or Irrevocable LC* equivalent to at least 2% of the ABC • Surety bond callable upon demand equivalent to at least 5% of the ABC 	75,000.00
Class "B" overhauling of Main propulsion diesel engines Nr 1 & 2 Model SEMT PIELSTICK PA6 V280	One (1) Lot	203,883,495.14	PITC AR No. 0003044 dated 5/30/2018		
Alignment of Main Propulsion diesel engines and reduction gear to propeller shafts					
Restoration and re-activation of Port and Starboard main engines starting air control system					
Restoration and re-activation of Main propulsion control system at Engine room, MCR and at Bridge Compartment					
Overhauling of Port and Starboard reduction gears Model REINT JES WAV 4942					
Replacement of Exhaust pipes of Main Propulsion engines Nrs 1 & 2					

**Must be issued by a Local Universal or Local Commercial Bank.*

2. Bids received in excess of the ABC shall be automatically rejected at Bid opening.
3. **PITC and PN** now invite Bids from MARINA Licensed Shipbuilders and Ship Repairers for the **Marine Engineering Upgrade of BRP Artemio Ricarte PS 37 for the Philippine Navy (PN)** (hereafter referred to as GOODS).
4. The bidding is open to Filipino citizens / sole proprietorships, partnerships, or organization with at least sixty percent (60%) interest or outstanding capital stock belonging citizens of the Philippines.
5. Project Completion Period (**including delivery of repair parts from the OEM**): **Within Three Hundred (300) calendar days from receipt of Notice of Availability of the Vessel.**



6. Project Site: **Contractor’s designated Repair Facility that can accommodate BRP Artemio Ricarte PS 37.**
7. **The final acceptance and turn-over of the vessel shall be at the designated repair facility of the contractor or nearest Naval Base facility within the Philippines**
8. A prospective Bidder should have completed **within the last five (5) years** from the date of submission and receipt of bids **at least one (1) single contract** similar to the contract to be bid amounting to at least **fifty percent (50%)** of the ABC of the item being bid for.

“Similar Contract” shall mean Over-hauling of Main Propulsion Diesel Engine (MPDE).

9. Open competitive bidding procedures will be conducted using a non-discretionary “pass/fail” criterion as specified in the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (R.A.) 9184, otherwise known as the “Government Procurement Reform Act”. All particulars relative to this bidding including Eligibility Checking, Bid Security, Evaluation and Post-Qualification Procedures and Award of Contract shall be governed by R.A. 9184 and its **2016** Revised IRR.
10. The Invitation to Bid and Bidding Documents may be downloaded from the website of the **Philippine Government Electronic Procurement System (PhilGEPS)** and **PITC website** at **www.pitc.gov.ph**. Interested bidders may inspect the Bidding Documents upon presentation of proper identification during office hours (8:00am – 4:00pm) on weekdays only.
11. The complete set of Bidding Documents maybe acquired by interested bidders during office hours (8:00am – 4:00pm) but no later than 4:00pm upon payment of a non-refundable fee as indicated above. The bidding documents shall be received personally by the prospective bidder or his duly authorized representative upon presentation of proper identification document.

It may also be downloaded free of charge from the website of the PhilGEPS and the PITC website, PROVIDED that bidders shall pay the applicable fee for the Bidding Documents not later than the submission of their bids.

For the Pre-bid Conference, bidders are encouraged to send their authorized technical representatives or personnel who are familiar with the bid requirements and will prepare the Bidding Documents.

12. The **Schedule of Bidding Activities** shall be as follows:

ACTIVITIES	TIME	VENUE
1. Sale and Issuance of Bidding Documents	8:00 AM to 4:00 PM only, Mondays to Fridays, starting 04 October 2018	BAC I Secretariat c/o Ms. Jane C. Arcilla at 4/F, NDC Building, 116 Tordesillas Street, Salcedo Village, 1227 Makati City
2. Pre-Bid Conference	12 October 2018 3:00PM	5/F Conference Room, NDC Building, 116 Tordesillas Street, Salcedo Village, 1227 Makati City
3. Submission and Opening of Bids	05 December 2018 11:00 AM Late bids shall not be accepted	5/F Conference Room, NDC Building, 116 Tordesillas Street, Salcedo Village, 1227 Makati City

13. Interested bidders may obtain further information from the **BAC I Secretariat c/o Ms. Jane C. Arcilla** at the **4/F, NDC Building, 116 Tordesillas Street, Salcedo Village, 1227 Makati City**, from **8:00 AM to 4:00 PM only, Mondays to Fridays** starting **04 October 2018** at Tel. No. **818-98-01 loc. 382**. **However, any queries relative to the contents of the Bidding Documents and the project requirements can only be made by suppliers not later than ten (10) days prior to the Submission and Opening of Bids.**
14. PITC reserves the right to accept or reject any bid proposal, to annul the bidding process, and to reject all bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or Bidders.

PITC BIDS & AWARDS COMMITTEE I

Posting on **04 October 2018** - PhilGEPS, PITC Website (www.pitc.gov.ph)
Ads @ *Philippine Star* on **04 October 2018**



Section II. Instructions to Bidders (ITB)



INSTRUCTION TO BIDDERS (ITB)

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**INSTRUCTIONS TO BIDDERS (ITB)****A. General****1. Scope of Bid**

- 1.1. The Procuring Entity named in the **BDS** invites bids for the supply and delivery of the Goods as described in Section VII. Technical Specifications.
- 1.2. The name, identification, and number of items specific to this bidding are provided in the **BDS**. The contracting strategy and basis of evaluation of items is described in ITB Clause 28.

2. Source of Funds

The Procuring Entity has a budget or has applied for or received funds from the Funding Source named in the **BDS**, and in the amount indicated in the **BDS**. It intends to apply part of the funds received for the Project, as defined in the **BDS**, to cover eligible payments under the contract.

3. Corrupt, Fraudulent, Collusive, and Coercive Practices

- 3.1. Unless otherwise specified in the BDS, the Procuring Entity as well as the bidders and suppliers shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Procuring Entity:
 - (a) defines, for 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 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 RA 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.
- 3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in ITB Clause 3.1 (a).
- 3.3. Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a bidder or supplier in the bidding for and performance of a contract themselves or through independent auditors as reflected in the GCC Clause 3.

4. Conflict of Interest

- 4.1. All Bidders found to have conflicting interests with each other shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) below and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (g) below:
- (a) A Bidder has controlling shareholders in common with another Bidder;
 - (b) A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
 - (c) A Bidder has the same legal representative as that of another Bidder for purposes of this bid;
 - (d) A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder or influence the decisions of the Procuring Entity regarding this bidding process. This will include a firm or an organization who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project if the personnel would be involved in any capacity on the same project;
 - (e) A Bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid;
 - (f) A Bidder who participated as a consultant in the preparation of the design or technical specifications of the Goods and related services that are the subject of the bid.



- (g) A Bidder who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project;

4.2. In accordance with Section 47.1 of the 2016 RIRR of RA 9184, all Bidding Documents shall be accompanied by a sworn affidavit of the Bidder that it is not related to the Head of the Procuring Entity (HOPE), members of the Bids and Awards Committee (BAC), members of the Technical Working Group (TWG), members of the BAC Secretariat, the head of the Project Management Office (PMO) or the end-user unit or implementing unit, and the project consultants, by consanguinity or affinity up to the third civil degree. On the part of the Bidder, this Clause shall apply to the following persons:

- (a) If the Bidder is an individual or a sole proprietorship, to the Bidder himself;
- (b) If the Bidder is a partnership, to all its officers and members;
- (c) If the Bidder is a corporation, to all its officers, directors, and controlling stockholders; and
- (d) If the Bidder is a cooperative, to all its officers, directors, and controlling shareholders or members; and
- (e) If the Bidder is a joint venture (JV), the provisions of items (a), (b), (c) or (d) of this Clause shall correspondingly apply to each of the members of the said JV, as may be appropriate.

Relationship of the nature described above or failure to comply with this Clause will result in the automatic disqualification of a Bidder in consonance with Section 30 of the 2016 RIRR of RA 9184. There will be automatic disqualification of the bidder from participating in the procurement of the Procuring Entity notwithstanding the act of such persons inhibiting themselves from the procurement process.

5. Eligible Bidders

5.1. Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this bidding:

- (a) Duly licensed Filipino citizens/sole proprietorships;
- (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
- (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
- (d) Cooperatives duly organized under the laws of the Philippines;
- (e) Persons/entities forming themselves into a Joint Venture, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%). For this purpose, Filipino ownership or interest shall be based on the contribution of each of the members of the joint venture as specified in their JVA.



- 5.2. Foreign bidders may be eligible to participate when any of the following circumstances exist, as specified in the **BDS**:
- (a) Citizens, corporations, or associations of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;
 - (b) When the Goods sought to be procured are not available from local suppliers; or
 - (c) When there is a need to prevent situations that defeat competition or restrain trade.
- 5.3. Government-owned and controlled corporations may be eligible to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity.
- 5.4. Unless otherwise provided in the **BDS**, the Bidder must have completed a Single Largest Completed Contract (SLCC) similar to the Project and the value of which, adjusted, if necessary, by the Bidder to current prices using the Philippine Statistics Authority (PSA) consumer price index, must be at least equivalent to a percentage of the ABC stated in the **BDS**.

For this purpose, contracts similar to the Project shall be those described in the **BDS**, and completed within the relevant period stated in the Invitation to Bid and ITB Clause 12.1(a)(ii).

- 5.5. The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC) which must be at least equal to the ABC to be bid, calculated as follows:
- $$\text{NFCC} = [(\text{Current assets minus current liabilities}) (15)] \text{ minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started, coinciding with the contract to be bid.}$$

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR, through its Electronic Filing and Payment System (EFPS).

For purposes of computing foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their Audited Financial Statements prepared in accordance with international financial reporting standards.

If the prospective bidder opts to submit a committed Line of Credit, it must be at least equal to ten percent (10%) of the ABC to be bid. If issued by a foreign Universal or Commercial Bank, it shall be confirmed or authenticated by a local Universal or Commercial Bank.

6. Bidder's Responsibilities

- 6.1. The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VI. Bidding Forms of this Bidding Document as required in ITB Clause 12.1 (a)1.3.1(b)(iii)
- 6.2. The Bidder is responsible for the following:
- (a) Having taken steps to carefully examine all of the Bidding Documents;
 - (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
 - (c) Having made an estimate of the facilities available and needed for the contract to be bid, if any; and



- (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin(s) as provided under ITB Clause 10.3.
- (e) Ensuring that it is not “blacklisted” or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
- (f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
- (g) Authorizing the Head of the Procuring Entity or its duly authorized representative/s to verify all the documents submitted;
- (h) Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary’s Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture;
- (i) Complying with the disclosure provision under Section 47 of RA 9184 in relation to other provisions of RA 3019; and
- (j) Complying with existing labor laws and standards, in the case of procurement of services; Moreover, bidder undertakes to:
 - (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.
In case there is a finding by the Procuring Entity or the DOLE of underpayment or non-payment of workers’ wage and wage-related benefits, bidder agrees that the performance security or portion of the contract amount shall be withheld in favor of the complaining workers pursuant to appropriate provisions of Republic Act No. 9184 without prejudice to the institution of appropriate actions under the Labor Code, as amended, and other social legislations.
 - (ii) Comply with occupational safety and health standards and to correct deficiencies, if any.
In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and
 - (iii) Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment’s premises; and
- (k) Ensuring that it did not give or pay, directly or indirectly, any commission, amount, fee or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

Failure to observe any of the above responsibilities shall be at the risk of the Bidder concerned.



- 6.3. The Bidder is expected to examine all instructions, forms, terms and specifications in the Bidding Documents.
- 6.4. It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of this Project; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this Project.
- 6.5. The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the procuring entity. However, Procuring Entity shall ensure that all information in the Bidding Documents, including bid/supplemental bid bulletin/s issued, are correct and consistent.
- 6.6. Before submitting their bids, the Bidder is deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect this Project in any way.
- 6.7. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.8. The Bidder should note that the Procuring Entity will accept bids only from those that have paid the applicable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

7. Origin of Goods

Unless otherwise indicated in the **BDS**, there is no restriction on the origin of goods other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, subject to ITB Clause 20.

8. Subcontracts

- 8.1. Unless otherwise specified in the **BDS**, the Bidder may subcontract portions of the Goods to an extent as may be approved by the Procuring Entity and stated in the **BDS**. However, subcontracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.
- 8.2. Subcontractors must submit the documentary requirements under ITB Clause 12 and comply with the 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.
- 8.3. The Bidder may identify the subcontractor to whom a portion of the Goods will be subcontracted at any stage of the bidding process or during contract implementation. If the Bidder opts to disclose the name of the subcontractor during bid submission, the Bidder shall include the required documents as part of the technical component of its bid.

B. Contents of Bidding Documents

9. Pre-Bid Conference

- 9.1.
 - (a) If so specified in the **BDS**, a pre-bid conference shall be held at the venue and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Project.



- (b) The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids but not earlier than seven (7) calendar days from the posting of the invitation to bid/Bidding Documents in the PhilGEPS website. If the Procuring Entity determines that, by the reason of the method, nature, or complexity of the contract to be bid, or when international participation will be more advantageous to the GOP, a longer period for the preparation of bids is necessary, the pre-bid shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids, as specified in the **BDS**.
- 9.2. Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents as recorded in the minutes of the pre-bid conference and the Supplemental/Bid Bulletin. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes shall be made available to prospective bidders not later than five (5) days upon written request.
- 9.3. Decisions of the BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.

10. Clarification and Amendment of Bidding Documents

- 10.1. Prospective bidders may request for clarification on and/or interpretation of any part of the Bidding Documents. Such request must be in writing and submitted to the Procuring Entity at the address indicated in the **BDS** at least ten (10) calendar days before the deadline set for the submission and receipt of bids.
- 10.2. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin, to be made available to all those who have properly secured the Bidding Documents, at least seven (7) calendar days before the deadline for the submission and receipt of Bids.
- 10.3. Supplemental/Bid Bulletins may also be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. Any modification to the Bidding Documents shall be identified as an amendment.
- 10.4. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted on the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Procuring Entity concerned, if available. It shall be the responsibility of all Bidders who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with ITB Clause 23.

C. Preparation of Bids

11. Language of Bids

The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The



documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.

12. Documents Comprising the Bid: Eligibility and Technical Components

12.1. Unless otherwise indicated in the **BDS**, the first envelope shall contain the following eligibility and technical documents:

(a) **Eligibility Documents –**

Class “A” Documents:

- (i) PhilGEPS Certification of Registration and Membership in accordance with Section 8.5.2 of the IRR, except for foreign bidders participating in the procurement by a Philippine Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of the IRR, provided, that the winning bidder shall register with the PhilGEPS in accordance with Section 37.1.4 of the IRR.
- (ii) Statement of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid; and
Statement identifying the Bidder's Single Largest Completed Contract (SLCC) similar to the contract to be bid, in accordance with ITB Clause 5.4, within the relevant period as provided in the BDS.
The two statements required shall indicate for each contract, the following:
 - (ii.1) name of the contract;
 - (ii.2) date of the contract;
 - (ii.3) contract duration;
 - (ii.4) owner's name and address;
 - (ii.5) kinds of Goods;
 - (ii.6) For Statement of Ongoing Contracts – amount of contract and value of outstanding contracts;
 - (ii.7) For Statement of SLCC – amount of completed contracts, adjusted by the Bidder to current prices using PSA's consumer price index, if necessary for the purpose of meeting the SLCC requirement;
 - (ii.8) date of delivery; and
 - (ii.9) end-user's acceptance or official receipt(s) or sale issued for the contract, if completed, which shall be attached to the statements.
- (iii) NFCC in accordance with ITB Clause 5.5 or a committed Line of Credit from a universal or commercial bank.

**Class “B” Document:**

(iv) If applicable, the Joint Venture Agreement in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners in accordance with Section 23.1(b) of the 2016 IRR.

(b) Technical Documents –

- (i) Bid security in accordance with ITB Clause 18. If the Procuring Entity requires the bidders to submit the bid security in the form of:
 - (a) a bank draft/guarantee or an irrevocable letter of credit issued by a foreign bank, it shall be accompanied by a confirmation from a Universal or Commercial Bank; or
 - (b) a surety bond, it shall be accompanied by a certification by the Insurance Commission that the surety or insurance company is authorized to issue such instruments;
- (ii) Conformity with technical specifications, as enumerated and specified in Sections VI of this Bidding Documents; and
- (iii) Sworn statement in accordance with Section 25.3 of the 2016 Revised IRR of RA 9184 and using the form prescribed in Section VI of this Bidding Document.
- (iv) For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.

13. Documents Comprising the Bid: Financial Component

13.1. Unless otherwise stated in the **BDS**, the financial component of the bid shall contain the following:

- (a) Financial Bid Form, which includes bid prices and the applicable Price Schedules, in accordance with ITB Clauses 15.1 and 15.4;
- (b) If the Bidder claims preference as a Domestic Bidder, a certification from the DTI issued in accordance with ITB Clause 27, unless otherwise provided in the **BDS**; and
- (c) Any other document related to the financial component of the bid as stated in the **BDS**.

13.2.

- (a) Unless otherwise stated in the **BDS**, all bids that exceed the ABC shall not be accepted.
- (b) Unless otherwise indicated in the **BDS**, for foreign-funded procurement, a ceiling may be applied to bid prices provided the following conditions are met:
 - (i) Bidding Documents are obtainable free of charge on a freely accessible website. If payment of Bidding Documents is required by the procuring entity, payment could be made upon the submission of bids.



- (ii) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates made by the responsible unit of the procuring entity and that the estimates reflect the quality, supervision and risk and inflationary factors, as well as prevailing market prices, associated with the types of works or goods to be procured.
- (iii) The procuring entity has trained cost estimators on estimating prices and analyzing bid variances.
- (iv) The procuring entity has established a system to monitor and report bid process relative to ABC and engineer's/procuring entity's estimate.
- (v) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.

14. Alternative Bids

- 14.1. Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.
- 14.2. Each Bidder shall submit only one Bid, either individually or as a partner in a JV. A Bidder who submits or participates in more than one bid (other than as a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil, and administrative penalties that may be imposed upon the persons and entities concerned.

15. Bid Prices

- 15.1. The Bidder shall complete the appropriate Schedule of Price included herein, stating the unit prices, total price per item, the total amount and the expected countries of origin of the Goods to be supplied under this Project.
- 15.2. The Bidder shall fill in rates and prices for all items of the Goods described in the Schedule of Prices. Bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, Schedule of Prices, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) or a dash (-) for the said item would mean that it is being offered for free to the Government, except those required by law or regulations to be accomplished.
- 15.3. The terms Ex Works (EXW), Cost, Insurance and Freight (CIF), Cost and Insurance Paid to (CIP), Delivered Duty Paid (DDP), and other trade terms used to describe the obligations of the parties, shall be governed by the rules prescribed in the current edition of the International Commercial Terms (INCOTERMS) published by the International Chamber of Commerce, Paris.
- 15.4. Prices indicated on the Price Schedule shall be entered separately in the following manner:
 - (a) For Goods offered from within the Procuring Entity's country:
 - (i) The price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable);



- (ii) The cost of all customs duties and sales and other taxes already paid or payable;
 - (iii) The cost of transportation, insurance, and other costs incidental to delivery of the Goods to their final destination; and
 - (iv) The price of other (incidental) services, if any, listed in the **BDS**.
- (b) For Goods offered from abroad:
- (i) Unless otherwise stated in the **BDS**, the price of the Goods shall be quoted DDP with the place of destination in the Philippines as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.
 - (ii) The price of other (incidental) services, if any, listed in the **BDS**.
- (c) For Services, based on the form which may be prescribed by the Procuring Entity, in accordance with existing laws, rules and regulations.
- 15.5. Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation or price escalation on any account. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 24.
- 15.6. All bid prices for the given scope of work in the contract as awarded shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances. Upon the recommendation of the Procuring Entity, price escalation may be allowed in extraordinary circumstances as may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon approval by the GPPB. Nevertheless, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GOP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

16. Bid Currencies

- 16.1. Prices shall be quoted in the following currencies:
- (a) For Goods that the Bidder will supply from within the Philippines, the prices shall be quoted in Philippine Pesos.
 - (b) For Goods that the Bidder will supply from outside the Philippines, the prices may be quoted in the currency (ies) stated in the **BDS**. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate as published in the BSP reference rate bulletin on the day of the bid opening.
- 16.2. If so allowed in accordance with ITB Clause 16.1, the Procuring Entity for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the bid price is expressed to Philippine Pesos at the foregoing exchange rates.
- 16.3. Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.



17. Bid Validity

- 17.1. Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) calendar days from the date of the opening of bids.
- 17.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. The bid security described in ITB Clause 18 should also be extended corresponding to the extension of the bid validity period at the least. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

18. Bid Security

- 18.1. The Bidder shall submit a Bid Securing Declaration or any form of the Bid Security in the amount stated in the **BDS**, which shall not be less than the percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Not less than the Percentage of the ABC)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)
(b) Bank draft/guarantee or irrevocable letter of credit 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 issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security	Five Percent (5%)

The Bid Securing Declaration mentioned above is an undertaking which states, among others, that the bidder shall enter into contract with the procuring entity and furnish the performance security required under ITB Clause 33.2, within ten (10) calendar days from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as provided in the guidelines issued by the GPPB.

- 18.2. The bid security should be valid for the period specified in the **BDS**. Any bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.
- 18.3. No bid securities shall be returned to bidders after the opening of bids and before contract signing, except to those that failed or declared as post-disqualified, upon submission of a written waiver of their right to file a motion for reconsideration and/or protest. Without prejudice on its forfeiture, bid securities shall be returned only after the bidder with the Lowest Calculated and Responsive Bid (LCRB) has signed the contract and furnished the performance security, but in no case later than the expiration of the bid security validity period indicated in ITB Clause 18.2.



- 18.4. Upon signing and execution of the contract pursuant to ITB Clause 32, and the posting of the performance security pursuant to ITB Clause 33, the successful Bidder's bid security will be discharged, but in no case later than the bid security validity period as indicated in the ITB Clause 18.2.
- 18.5. The bid security may be forfeited:
- (a) if a Bidder:
 - (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 (a);
 - (iii) has a finding against their veracity 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.
 - (b) 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.

19. Format and Signing of Bids

- 19.1. Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VI. Bidding Forms on or before the deadline specified in the ITB Clauses 21 in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under ITB Clause 12.1, and the second shall contain the financial component of the bid. This shall also be observed for each lot in the case of lot procurement.
- 19.2. Forms as mentioned in ITB Clause 19.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.



- 19.3. The Bidder shall prepare and submit an original of the first and second envelopes as described in ITB Clauses 12 and 13. In addition, the Bidder shall submit copies of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.4. Each and every page of the Bid Form, including the Schedule of Prices, under the Section VIII hereof, shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the bid.
- 19.5. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

20. Sealing and Marking of Bids

- 20.1. Bidders shall enclose their original eligibility and technical documents described in ITB Clause 12 in one sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT", and the original of their financial component in another sealed envelope marked "ORIGINAL - FINANCIAL COMPONENT", sealing them all in an outer envelope marked "ORIGINAL BID".
- 20.2. Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as "COPY NO. ____ - TECHNICAL COMPONENT" and "COPY NO. ____ - FINANCIAL COMPONENT" and the outer envelope as "COPY NO. ____", respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 20.3. The original and the number of copies of the Bid as indicated in the **BDS** shall be typed or written in indelible ink and shall be signed by the Bidder or its duly authorized representative/s.
- 20.4. All envelopes shall:
 - (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.
- 20.5. Unsealed or unmarked bid envelopes shall be rejected. However, bid envelopes that are not properly sealed and marked, as required in the Bidding Documents, shall be accepted, provided that the bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. If bids are not sealed and unmarked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the bid.

D. Submission and Opening of Bids

21. Deadline for Submission of Bids

Bids must be received by the Procuring Entity's BAC at the address and on or before the date and time indicated in the **BDS**.



22. Late Bids

Any bid submitted after the deadline for submission and receipt of bids prescribed by the Procuring Entity, pursuant to ITB Clause 21, shall be declared “Late” and shall not be accepted by the Procuring Entity. The BAC shall record in the minutes of bid submission and opening, the Bidder’s name, its representative and the time the late bid was submitted.

23. Modification and Withdrawal of Bids

- 23.1. The Bidder may modify its bid after it has been submitted; provided that the modification is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed, properly identified, linked to its original bid marked as “TECHNICAL MODIFICATION” or “FINANCIAL MODIFICATION” and stamped “received” by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.
- 23.2. A Bidder may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Letter of Withdrawal must be executed by the duly authorized representative of the Bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.
- 23.3. Bids requested to be withdrawn in accordance with ITB Clause 23.1 shall be returned unopened to the Bidders. A Bidder, who has acquired the Bidding Documents, may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of bids. A Bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- 23.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Bidder’s bid security, pursuant to ITB Clause 18.5, and the imposition of administrative, civil and criminal sanctions as prescribed by RA 9184 and its IRR.

24. Opening and Preliminary Examination of Bids

- 24.1. The BAC shall open the first bid envelopes of Bidders in public, immediately after the deadline for the submission and receipt of bids, as specified in the **BDS**. In case the Bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the Bids submitted and reschedule the opening of Bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the PhilGEPS website and the website of the Procuring Entity concerned.
- 24.2. Unless otherwise specified in the **BDS**, the BAC shall open the first bid envelopes and determine each Bidder’s compliance with the documents prescribed in ITB Clause 12, using a non-discretionary “pass/fail” criterion. If a bidder submits the required document, it shall be rated “passed” for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as “failed”. Otherwise, the BAC shall rate the said first bid envelope as “passed”.
- 24.3. Unless otherwise specified in the **BDS**, immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid



envelope was rated “passed”. The second envelope of each complying bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC unless otherwise provided in ITB Clause 13.2, the BAC shall rate the bid concerned as “failed”. Only bids that are determined to contain all the bid requirements for both components shall be rated “passed” and shall immediately be considered for evaluation and comparison.

- 24.4. Letters of withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened. If the withdrawing Bidder’s representative is in attendance, the original bid and all copies thereof shall be returned to the representative during the bid opening. If the representative is not in attendance, the bid shall be returned unopened by registered mail. The Bidder may withdraw its bid prior to the deadline for the submission and receipt of bids, provided that the corresponding Letter of Withdrawal contains a valid authorization requesting for such withdrawal, subject to appropriate administrative sanctions.
- 24.5. All members of the BAC who are present during bid opening shall initial every page of the original copies of all bids received and opened.
- 24.6. In the case of an eligible foreign Bidder as described in ITB Clause 5, the following Class “A” Documents may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign Bidder concerned, which shall likewise be uploaded and maintained in the PhilGEPS in accordance with Section 8.5.2 of the IRR.
 - (a) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives;
 - (b) Mayor’s/Business Permit issued by the local government where the principal place of business of the bidder is located; and
 - (c) Audited Financial Statements showing, among others, the prospective bidders total and current assets and liabilities stamped “received” by the Bureau of Internal Revenue or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two years from the date of bid submission.
- 24.7. Each partner of a joint venture agreement shall likewise submit the requirements in ITB Clause 12.1 12.1(a)(i). Submission of documents required under ITB Clauses 12.1 (a)(ii) to 12.1 (a)(iii) by any of the joint venture partners constitutes compliance.
- 24.8. The Procuring Entity shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.
- 24.9. The bidders or their duly authorized representatives may attend the opening of bids. The BAC shall ensure the integrity, security, and confidentiality of all submitted bids. The Abstract of Bids as read and the minutes of the bid opening shall be made available to the public upon written request and payment of a specified fee to recover cost of materials.



- 24.10. To ensure transparency and accurate representation of the bid submission, the BAC Secretariat shall notify in writing all bidders whose bids it has received through its PhilGEPS-registered physical address or official e-mail address. The notice shall be issued within seven (7) calendar days from the date of the bid opening.

E. Evaluation and Comparison of Bids

25. Process to be Confidential

- 25.1. Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise allowed in the **BDS** or in the case of ITB Clause 26.
- 25.2. Any effort by a bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's bid.

26. Clarification of Bids

To assist in the evaluation, comparison, and post-qualification of the bids, the Procuring Entity may ask in writing any Bidder for a clarification of its bid. All responses to requests for clarification shall be in writing. Any clarification submitted by a Bidder in respect to its bid and that is not in response to a request by the Procuring Entity shall not be considered.

27. Domestic Preference

- 27.1. Unless otherwise stated in the **BDS**, the Procuring Entity will grant a margin of preference for the purpose of comparison of bids in accordance with the following:
- (a) The preference shall be applied when the lowest Foreign Bid is lower than the lowest bid offered by a Domestic Bidder.
 - (b) For evaluation purposes, the lowest Foreign shall be increased by fifteen percent (15%).
 - (c) In the event that the lowest bid offered by a Domestic Bidder does not exceed the lowest Foreign Bid as increased, then the Procuring Entity shall award the contract to the Domestic Bidder at the amount of the lowest Foreign Bid.
 - (d) If the Domestic Bidder refuses to accept the award of contract at the amount of the Foreign Bid within two (2) calendar days from receipt of written advice from the BAC, the Procuring Entity shall award the contract to the bidder offering the Foreign Bid subject to post-qualification and submission of all the documentary requirements under these Bidding Documents.
- 27.2. A Bidder may be granted preference as a Domestic Bidder subject to the certification from the DTI that the Bidder is offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.



28. Detailed Evaluation and Comparison of Bids

- 28.1. The Procuring Entity will undertake the detailed evaluation and comparison of bids which have passed the opening and preliminary examination of bids, pursuant to ITB Clause 24, in order to determine the Lowest Calculated Bid.
- 28.2. The Lowest Calculated Bid shall be determined in two steps:
- The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
 - The ranking of the total bid prices as so calculated from the lowest to the highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 28.3. The Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary pass/fail criteria. The BAC shall consider the following in the evaluation of bids:
- Completeness of the bid. Unless the **BDS** specifically allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, Schedule of Prices, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) or a dash (-) for the said item would mean that it is being offered for free to the Procuring Entity, except those required by law or regulations to be provided for; and
 - Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications, if allowed in the **BDS**. Any adjustment shall be calculated in monetary terms to determine the calculated prices.
- 28.4. Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the **BDS**.
- 28.5. The Procuring Entity's evaluation of bids shall only be based on the bid price quoted in the Financial Bid Form, which includes the Schedule of Prices
- 28.6. Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.
- 28.7. If so indicated pursuant to ITB Clause 1.2, Bids are being invited for individual lots or for any combination thereof, provided that all Bids and combinations of Bids shall be received by the same deadline and opened and evaluated simultaneously so as to determine the Bid or combination of Bids offering the lowest calculated cost to the Procuring Entity. Bid prices quoted shall correspond to all items specified for each item of a lot. Bid Security as required by ITB Clause 18 shall be submitted for each contract (lot) separately. The basis for evaluation of lots is specified in BDS Clause 28.3.



29. Post-Qualification

- 29.1. The Procuring Entity shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid (LCB) complies with and is responsive to all the requirements and conditions specified in ITB Clauses 5, 12, and 13.
- 29.2. Within a non-extendible period of five (5) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) and other appropriate licenses and permits required by law and stated in the **BDS**.
- Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the Bidder for award. Provided in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the Bid Security in accordance with Section 69 of the IRR of RA 9184.
- 29.3. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to ITB Clauses 12 and 13, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion, which shall be completed within a period of twelve (12) calendar days
- 29.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower.
- 29.5. A negative determination shall result in rejection of the Bidder's Bid, in which event the Procuring Entity shall proceed to the next Lowest Calculated Bid with a fresh period to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the Lowest Calculated Responsive Bid is determined for contract award.
- 29.6. Within a period not exceeding fifteen (15) calendar days from the date of receipt of the recommendation of the BAC, the Head of the Procuring Entity shall approve or disapprove the said recommendation.
- 29.7. In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds as provided for under Section 41 of the ITT of RA 9184, the HoPE shall notify the BAC and the Bidder in writing of such decision and the grounds for it. When applicable, the BAC shall conduct a post-qualification of the Bidder with the next Lowest Calculated Bid. A request for reconsideration may be filed by the bidder with the HoPE in accordance with Section 37.1.3 of the IRR of RA 9184.

30. Reservation Clause

- 30.1. Notwithstanding the eligibility or post-qualification of a bidder, the Procuring Entity concerned reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said Bidder, or that there has been a change in the Bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or

documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the Procuring Entity shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.

- 30.2. Based on the following grounds, the Procuring Entity reserves the right to reject any and all bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:
- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
 - (b) If the Procuring Entity's BAC is found to have failed in following the prescribed bidding procedures; or
 - (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the head of the procuring entity;
 - (ii) If the project is no longer necessary as determined by the head of the procuring entity; and
 - (iii) If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.
- 30.3. In addition, the Procuring Entity may likewise declare a failure of bidding when:
- (a) No bids are received;
 - (b) All prospective bidders are declared ineligible;
 - (c) All bids fail to comply with all the bid requirements or fail post-qualification; or
 - (d) The bidder with the Lowest Calculated Responsive Bid (LCRB) refuses, without justifiable cause to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.

F. Award of Contract

31. Contract Award

- 31.1. Subject to ITB Clause 29, the HoPE or its duly authorized representative shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 31.2. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the Procuring Entity.



- 31.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
- (a) Submission of the following documents within ten (10) calendar days from receipt of the Notice of Award:
 - (i) Valid JVA, if applicable, or
 - (ii) In the case of procurement by a Philippine Foreign Service Office or Post, the PhilGEPS Registration Number of the winning foreign Bidder;
 - (b) Posting of the performance security in accordance with ITB Clause 33;
 - (c) Signing of the contract as provided in ITB Clause 32; and
 - (d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR of RA 9184
- 31.4. At the time of contract award, the Procuring Entity shall not increase or decrease the quantity of goods originally specified on Section VI. Bidding Forms in this Bidding Document.

32. Signing of the Contract

- 32.1. At the same time as the Procuring Entity notifies the successful Bidder that its bid has been accepted, the Procuring Entity shall send the Contract Form to the Bidder, which contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.
- 32.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security and sign and date the contract and return it to the Procuring Entity.
- 32.3. The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.
- 32.4. The following documents shall form part of the contract:
- (a) Contract Agreement;
 - (b) Bidding Documents;
 - (c) Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted (e.g., bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;
 - (d) Performance Security;
 - (e) Notice of Award of Contract; and
 - (f) Other contract documents that may be required by existing laws and/or specified in the BDS.

33. Performance Security

- 33.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.



33.2. The Performance Security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount not less than the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)
(b) Bank draft/guarantee or irrevocable letter of credit 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 issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security	Five Percent (5%)

33.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the Procuring Entity shall have a fresh period to initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the LCRB is identified and selected for contract award. However if no Bidder passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement, if necessary.

34. Notice to Proceed

Within seven (7) calendar days from the date of approval of the contract by the appropriate government approving authority, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful bidder. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.

35. Protest Mechanism

Decision of the procuring entity at any stage of the procurement process may be questioned in accordance with Section 55 of the 2016 Revised IRR of Republic Act 9184.



Section III. Bid Data Sheet (BDS)

**Bid Data Sheet (BDS)**

ITB Clause												
1.1	The PROCURING ENTITY is the PHILIPPINE INTERNATIONAL TRADING CORPORATION (PITC) .											
1.2	Bidders must bid in full the quantity of the lot being bid.											
2	<p>The funding source is from the General Headquarters, Armed Forces of the Philippines as follows:</p> <table border="1" data-bbox="379 555 1385 734"> <thead> <tr> <th data-bbox="379 555 798 629">Description</th> <th data-bbox="802 555 919 629">Qty</th> <th data-bbox="924 555 1147 629">ABC (₱) (VAT Inclusive)</th> <th data-bbox="1152 555 1385 629">Funding Source</th> </tr> </thead> <tbody> <tr> <td data-bbox="379 636 798 734">Marine Engineering Upgrade of BRP Artemio Ricarte PS 37</td> <td data-bbox="802 636 919 734">One (1) Lot</td> <td data-bbox="924 636 1147 734">203,883,495.14</td> <td data-bbox="1152 636 1385 734">PITC AR No. 0003044 dated 5/30/2018</td> </tr> </tbody> </table> <p>The name of the Project is: Marine Engineering Upgrade of BRP Artemio Ricarte PS37 for the Philippine Navy (PN)</p>				Description	Qty	ABC (₱) (VAT Inclusive)	Funding Source	Marine Engineering Upgrade of BRP Artemio Ricarte PS 37	One (1) Lot	203,883,495.14	PITC AR No. 0003044 dated 5/30/2018
Description	Qty	ABC (₱) (VAT Inclusive)	Funding Source									
Marine Engineering Upgrade of BRP Artemio Ricarte PS 37	One (1) Lot	203,883,495.14	PITC AR No. 0003044 dated 5/30/2018									
5.1	<p>Bidders must be MARINA Licensed Ship Builders and Ship Repairers.</p> <p>The bidding is open to Filipino citizens/sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines.</p>											
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: The Bidder must have completed within the last five (5) years, a single contract similar to the contract to be bid amounting to at least fifty percent (50%) of the ABC of the item being bid for.</p> <p>“Similar Contract” shall mean Over-Hauling Main Propulsion Diesel Engine (MPDE).</p>											
6.3	No further instructions.											
7	No further instructions.											
8.1	<p>Subcontracting is allowed up to two (2) subcontractors which must be disclosed during the bid opening for the Overhauling of Main Propulsion Diesel Engine Nr 1 and 2 Model SEMT PIELSTICK</p> <p>The bidder shall shoulder all costs related to the regular inspection of the subcontractor at its service facility during contract implementation, if service facility is outside of Metro Manila.</p>											
8.2	<p>Eligibility criteria for subcontractors:</p> <p>For Overhauling of Main Propulsion Diesel Engine Nr 1 and 2 Model SEMT PIELSTICK</p> <p>a. 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;</p>											



	<p>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;</p> <p>In cases 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 as a post-qualification requirement;</p>
<p>9.1</p>	<p>The Procuring Entity will hold a Pre-bid Conference for this Project on 12 October 2018, 3:00 PM at 5/F Conference Room, NDC Building, 116 Tordesillas Street, Salcedo Village, Makati City</p>
<p>10.1</p>	<p>Prospective Bidders may request for clarifications on any part of the Bidding Documents for an interpretation. Such a request must be in writing and submitted 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 5th Flr., Philippine International Trading Corporation (PITC) NDC Building, 116 Tordesillas St., Salcedo Village, 1227 Makati City Fax Number: 818-9801 loc 499 /892-2149 Email: chairbac1@pitc.gov.ph and pitcbac1@gmail.com</p>
<p>12.1</p>	<p>A.1 ELIGIBILITY DOCUMENTS</p> <p>Class “A” Documents:</p> <p>(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;</p> <p>(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</p> <p>In cases 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 as a post-qualification requirement;</p> <p>(iii) Valid and Current Tax Clearance issued by Accounts Receivable Monitoring Division per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR;</p> <p>(iv) Copy of Audited Financial Statements for 2017 and 2016 (in comparative form or separate reports):</p> <ol 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).



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

OR

Submission of valid and current Certificate of PHILGEPS Registration (Platinum Membership) together with Annex A in lieu of items (i), (ii), (iii) and (iv) above.

***Note:** Bidder must ensure that all Class "A" Eligibility Documents are valid and current at the time of submission of Certificate of PHILGEPS Registration (Platinum Membership). 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 2017 and 2016 (stamped received by the BIR or its duly accredited and authorized institution) together with the Platinum Registration.

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 Contract" shall mean Overhauling of Main Propulsion Diesel Engine (MPDE).

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-A, in accordance with ITB Clause 5.5 OR Committed Line of Credit per Annex II-B.
 - a) Should the bidder opt to submit NFCC, computation must be at least be equal to the ABC of the project. The detailed computation using the required formula must be shown as provided for in Annex II-A.

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.



12.1	<p>Notes:</p> <ol style="list-style-type: none"> 1. The phrase "the values of the bidder's current assets and current liabilities" shall be based on the data submitted to the BIR, which, refers to the values of the current assets and current liabilities reflected in the Annual Audited Financial Statements. 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 provided above. 4. The NFCC computation must at least be equal to the ABC of the project. <p><u>OR</u></p> <ol style="list-style-type: none"> 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. The amount of the committed Line of Credit MUST BE MACHINE VALIDATED. (Annex II-B) <p>A.2 ELIGIBILITY DOCUMENTS FOR SUBCONTRACTORS</p> <p>For Overhauling of Main Propulsion Diesel Engine Nr 1 and 2 Model SEMT PIELSTICK PA6 V280</p> <ol style="list-style-type: none"> 1) 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; 2) 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; <p>In cases 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 as a post-qualification requirement;</p> <p><u>Class "B" Document: (For Joint Venture)</u></p> <p>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.</p> <p>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.</p> <p>For Joint Ventures, Bidder to submit either:</p> <ol style="list-style-type: none"> a) Copy of the JOINT VENTURE AGREEMENT (JVA) in case the joint venture is already in existence, or
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- b) 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 the notice from the BAC that the bidder is the Lowest Calculated and Responsive Bid [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.

Each JV partner, must also submit the following:

- (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;

In cases 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 as a post-qualification requirement;

- (iii) Valid and Current Tax Clearance issued by Accounts Receivable Monitoring Division per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR.
- (iv) Copy of Audited Financial Statements for 2017 and 2016 (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.

OR

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

*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 **2017** and **2016** (stamped received by the BIR or its duly accredited authorized institutions) together with the Platinum Registration



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”

For other required Class “A” Eligibility Documents, submission by any of the partner(s) constitutes collective compliance.

B. TECHNICAL DOCUMENTS –

- (i) Bid security must be issued in favor of the **PHILIPPINE INTERNATIONAL TRADING CORPORATION (PITC)** in any of the following forms:
 - 1) Bid Securing Declaration per **Annex IV**;
 - 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; **OR**
 - 4) Surety bond callable upon demand equivalent to at least 5% of the ABC

Description	Qty	ABC (₱) (VAT Inclusive)	Bid Security ₱	
			2% of ABC	5% of ABC
Marine Engineering Upgrade of BRP Artemio Ricarte PS 37	One (1) Lot	203,883,495.14	4,077,669.90	10,194,174.76

Notes:

- a) The Cashier’s/Manager’s Check shall be issued by a Local Universal or Commercial Bank.
- b) The Bank Draft/Guarantee or Irrevocable Letter of Credit shall be issued by a Local Universal or Local Commercial Bank.
- c) Should bidder opt to submit a Surety Bond as Bid Security, the surety bond must conform with the following:
 - c.1 Issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such bond. Together with the surety bond, a copy of a valid Certification from Insurance
 - c.2 Commission must be submitted by the bidder which must state that the surety or insurance company is specifically authorized to issue surety bonds.
 - c.3 Callable upon demand.
 - c.4 **Must specify the grounds for forfeiture of bid security as stated in Section II, ITB Clause 18.5, to wit:**
 - **IF A BIDDER:**
 - (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 to clarify or validate in writing its bid during post-refusal or failure to post the required performance security within the prescribed time;
- (ix) 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) Completed and signed **Technical Bid Form** and other **Technical Documents:**

Annex V	Technical Bid Form
Annex V-A	Terms of Reference
Annex V-A1	BRP Artemio Ricarte (PS 37) Vessel Characteristics

- (iii) Valid and current License as Shipbuilders and Ship Repairer issued by MARINA
- (iv) Certification from the Bidder on the availability of repair facility capable of accommodating the vessel BRP Artemio Ricarte (PS37);
- (v) Project Requirements:
 - a) Organizational Chart
 - b) List of Contractor’s Personnel Including Bio Data
 - c) List of Contractor’s Equipment
 - d) Project Gantt Chart
 - e) Manpower Deployment



	<ul style="list-style-type: none"> (vi) Certificate of Shipboard Inspection to be issued by the Commanding Officer or his authorized representative of the vessel stating that the bidder has inspected the required repairs on the vessel. (vii) Certificate of Performance Evaluation (Annex V-B) showing a rating of at least Very Satisfactory, issued by the Bidder's client of the Single Largest Completed Contract of Similar Nature as indicated in the submitted Annex I-A. (viii) For Overhauling of Main Propulsion Diesel Engine (MPDE) Nr 1 and 2 Model SEMT PIELSTICK PA6 V 280: Certification from Original Equipment Manufacturer (OEM) that the supplied parts for the overhauling of the Main Propulsion Diesel Engine Nr 1 and 2 Model SEMT PIELSTICK PA6 V 280 are OEM/genuine parts; (ix) For Overhauling of Port and Starboard reduction gears Model REINTJES WAV 4942 Certification from Original Equipment Manufacturer (OEM) that the supplied parts for the overhaul of the Port and Starboard reduction gears Model REINTJES WAV 4942 are OEM/genuine parts; (x) Proof of Authority of the designated representative/s for purposes of the bidding. <ul style="list-style-type: none"> a) Duly notarized Special Power of Attorney – For Sole Proprietorship if owner opts to designate a representative/s; OR b) Duly notarized Secretary’s Certificate evidencing the authority of the designated representative/s, issued by the corporation, cooperative or the members of the joint venture. <p>Provided that 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 representatives for purposes of this bidding.</p> (xi) Omnibus Sworn Statement (Annex VI). <ul style="list-style-type: none"> a) Authority of the designated representative with corresponding proof of authorization; b) Non-inclusion in the Blacklist nor Under Suspension Status by Any Agency or Government Instrumentality; 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	Financial Bid Form per Annex VII and Detailed Financial Bid Form per VII-A



13.2	The ABC (inclusive of VAT) is as follows:				
	Description	Qty	Total ABC (₱) (Inclusive of VAT)		
	Marine Engineering Upgrade of BRP Artemio Ricarte PS 37	One (1) Lot	203,883,495.14		
	Any bid with a financial component exceeding the ABC shall not be accepted.				
15.4(a)(iv)	No further instructions.				
15.4(b)	No further instructions.				
15.5	Bid Prices shall be fixed. Adjustable price proposals shall be treated as non-responsive and shall be rejected.				
15.6	Extraordinary circumstances refer to events that may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon the recommendation of the Procuring Entity.				
16.1(b)	The Bid prices for Goods supplied from outside of the Philippines shall be quoted in Philippine Pesos.				
16.3	No further instructions.				
17.1	Bids will be valid one hundred twenty (120) calendar days from the date of bid opening.				
18.1	The bid security shall be in the following forms:				
	<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; 3) Bank Guarantee/ Bank draft or Irrevocable LC equivalent to at least 2% of the ABC; OR 4) Surety bond callable upon demand equivalent to at least 5% of the ABC 				
	Description	Qty	ABC (₱) (VAT Inclusive)	*Bid Security ₱	
				2% of ABC	5% of ABC
	Marine Engineering Upgrade of BRP Artemio Ricarte PS 37	One (1) Lot	203,883,495.14	4,077,669.90	10,194,174.76
	<i>* Must be issued by a Local Universal or Local Commercial Bank</i>				
18.2	The bid security shall be valid for one hundred twenty (120) calendar days from the date of opening of bids.				
18.5(b)(ii)	No further instructions.				
20.1	No further instructions.				
20.3	<p>Each Bidder shall submit the following in one big duly labeled envelope 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 Proposal duly marked as "Original Copy", "Duplicate Copy" and "Triplicate Copy"</p> <p>All envelopes and folders must be labeled as specified below (BDS 20.4)</p>				



20.4	<p>All envelopes shall:</p> <ul 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. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">TO</td> <td style="width: 5%;">:</td> <td style="width: 80%;">THE BIDS AND AWARDS COMMITTEE I PHILIPPINE INTERNATIONAL TRADING CORPORATION</td> </tr> <tr> <td>FROM</td> <td>:</td> <td>_____</td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;"><i>(Name of Bidder in Capital Letters)</i></td> </tr> <tr> <td>ADDRESS</td> <td>:</td> <td>_____</td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;"><i>(Address of Bidder in Capital Letters)</i></td> </tr> <tr> <td>PROJECT</td> <td>:</td> <td>MARINE ENGINEERING UPGRADE OF BRP ARTEMIO RICARTE PS37 FOR THE PHILIPPINE NAVY (PN)</td> </tr> <tr> <td>BID REF NO.</td> <td>:</td> <td>MPG-B1-2018-420</td> </tr> <tr> <td>LOT NO.</td> <td>:</td> <td>(IF ANY)</td> </tr> <tr> <td colspan="3">(In Capital Letters, Indicate the Phase):</td> </tr> <tr> <td colspan="3">"DO NOT OPEN BEFORE: 05 December 2018, 11:00 AM."</td> </tr> </table>	TO	:	THE BIDS AND AWARDS COMMITTEE I PHILIPPINE INTERNATIONAL TRADING CORPORATION	FROM	:	_____			<i>(Name of Bidder in Capital Letters)</i>	ADDRESS	:	_____			<i>(Address of Bidder in Capital Letters)</i>	PROJECT	:	MARINE ENGINEERING UPGRADE OF BRP ARTEMIO RICARTE PS37 FOR THE PHILIPPINE NAVY (PN)	BID REF NO.	:	MPG-B1-2018-420	LOT NO.	:	(IF ANY)	(In Capital Letters, Indicate the Phase):			"DO NOT OPEN BEFORE: 05 December 2018, 11:00 AM. "		
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"DO NOT OPEN BEFORE: 05 December 2018, 11:00 AM. "																															
21	<p>The address for submission of bids is Philippine International Trading Corporation, Ground Floor, NDC Building, 116 Tordesillas St., Salcedo Village, Makati City.</p> <p>The deadline for submission of bids is 05 December 2018, 11:00 AM.</p>																														
24.1	<p>The place of bid opening is Philippine International Trading Corporation, 5th Floor Conference Room, NDC Building, 116 Tordesillas St., Salcedo Village, Makati City.</p> <p>The date and time of bid opening is 05 December 2018, 11:00 AM.</p>																														
24.7	<p>Each partner of a joint venture agreement shall likewise submit the requirements in BDS 12.1 Eligibility documents (a)(i) to (a)(iii). Submission of documents required under BDS 12.1. Eligibility documents (a)(iv) to (a)(vii) by any of the joint venture partners constitutes compliance.</p>																														
28.3	<p>No further instructions.</p>																														
28.3 (b)	<p>Bid modification is not allowed.</p>																														
28.5	<p>No further instructions.</p>																														



29.2

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:

1. Present original copy and submit copy of the following:

- a. Latest Income Tax Returns per Revenue Regulations 3-2005; *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 (including copy of VAT returns and corresponding payments for the last 6 months):*
- 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**.

(In case of Joint Venture between local companies, both partners must present/submit above items a. and b. In case of foreign partner, a. is not applicable.)

2. Submit original copy of the following:

- a. Countertrade Undertaking (**Annex VIII-A**)

Pursuant to the provisions of E.O. 120 s. 1993 on the adoption of countertrade for government procurement of foreign goods and equipment, a winning bidder whose aggregate contract award hereunder amounts to the equivalent (in Philippine Pesos) of at least US\$1 Million over a period of one (1) year period From the date of award for the 1st project with PITC, shall be bound to undertake countertrade activities (counter purchase and/or offsets) for the benefit of the Philippines. The countertrade obligation of the said winning bidder shall sign a Countertrade Agreement with PITC outlining the terms and conditions of performance within 90 days after the signing of the Contract.

Failure to sign the Countertrade Agreement with PITC as herein required shall be deemed a violation of the terms and conditions of the bid award and subject to appropriate sanctions as herein provided.

- b. Company Profile (**Annex VIII-B**). Company printed brochure may be included.
- c. Vicinity map/location of the business

(In case of Joint Venture, both partners must present/submit above documents.)



29.2	<p>3. Present original copy of the following:</p> <ul style="list-style-type: none"> a. Registration Certificate from SEC (for corporations) or DTI (for sole proprietorship or 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 issued by Accounts Receivable Monitoring Division per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR; d. End-User's Acceptance, Official Receipt (duplicate or triplicate copy) or Sales Invoice with Collection Receipt/s (duplicate or triplicate copy) relative to Single Largest Completed Contract per submitted Annex I-A. e. Valid and current License as Shipbuilders and/or Ship Repairer issued by MARINA <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> <p>As part of Post Qualification, eligibility and technical documents submitted by the S/LCB, will be validated and verified.</p>
32.4 (f)	No further instructions.
34	No further Instructions.



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 the 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 process 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. Payment 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 VI, 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 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 as described in the SCC provision on Delivery and Documents.

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 IV: 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 VI. Bidding Forms 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 inspections 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. Bidding Forms.
- 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 22, 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 17.1 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. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the maximum is reached, 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 Contractor 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 Contractor. 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 shall terminate this Contract for default when any of the following conditions attends its implementation:

- (a) 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;
- (b) 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
- (c) The Supplier fails to perform any other obligation under the Contract.

- 23.2. 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.

- 23.3. 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.