

Section V. Special Conditions of the Contract

Section V. Special Conditions of Contract

Section V. Special Conditions of the Contract

Special Conditions of Contract

GCC Clause																
1.1(g)	The PROCURING ENTITY is the Department of National Defense.															
1.1(i)	The Supplier is <i>[to be inserted at the time of contract award]</i> .															
1.1(j)	<table border="1"> <thead> <tr> <th align="center">LOT</th> <th align="center">PARTICULARS FOR CY 2017</th> <th align="center">ABC</th> </tr> </thead> <tbody> <tr> <td align="center">1</td> <td>DND-Wide Petroleum Requirements for CY 2017</td> <td align="right">₱ 4,743,222,263.78</td> </tr> <tr> <td align="center">2</td> <td>DND-Wide Oil and Lubricant Requirements for CY 2017</td> <td align="right">₱ 217,377,291.99</td> </tr> <tr> <td align="center">3</td> <td>DND-Wide e-POL Card Requirements for CY 2017</td> <td align="right">₱ 1,032,412,546.95</td> </tr> <tr> <td align="center" colspan="2">TOTAL</td> <td align="right">₱ 5,993,012,102.72</td> </tr> </tbody> </table> <p>The Funding Source is the Government of the Philippines (GOP) with reference to the General Appropriations Act(GAA)in the total amount of <i>Five Billion Nine Hundred Ninety Three Million Twelve Thousand One Hundred Two and 72/100 Pesos (₱ 5,993,012,102.72)</i> for CY 2017 POL requirements.</p>	LOT	PARTICULARS FOR CY 2017	ABC	1	DND-Wide Petroleum Requirements for CY 2017	₱ 4,743,222,263.78	2	DND-Wide Oil and Lubricant Requirements for CY 2017	₱ 217,377,291.99	3	DND-Wide e-POL Card Requirements for CY 2017	₱ 1,032,412,546.95	TOTAL		₱ 5,993,012,102.72
LOT	PARTICULARS FOR CY 2017	ABC														
1	DND-Wide Petroleum Requirements for CY 2017	₱ 4,743,222,263.78														
2	DND-Wide Oil and Lubricant Requirements for CY 2017	₱ 217,377,291.99														
3	DND-Wide e-POL Card Requirements for CY 2017	₱ 1,032,412,546.95														
TOTAL		₱ 5,993,012,102.72														
1.1(k)	The delivery site is the PROCURING ENTITY’s camp and stations nationwide to include Aircraft and Naval Ships.															
5.1	<p>The PROCURING ENTITY’s Address for Notices is:</p> <p>Chairman, DND Bids and Awards Committee c/o DND BAC Secretariat Right Wing Basement, DND Bldg Camp General Emilio Aguinaldo, Quezon City Telephone/Fax Number: 421-3531</p> <p>Attention: Chairperson, TWG for DND-Wide POL</p> <p><i>Supply and Delivery of DND-Wide POL Requirements for CY 2017</i></p>															
6.2	<p>Delivery and Documents</p> <p><i>For either Foreign or Domestic Suppliers, the delivery of goods shall be made by the Supplier in accordance with the terms specified inSection VI: Schedule of Requirements. The details of delivery and other provisions/conditions and/or other documents to be furnished by the Supplier are as follows:</i></p>															

Supply and Delivery of DND-Wide POL Requirements for CY 2017

Section V. Special Conditions of the Contract

	<p>1. Supplier shall guarantee the continuous availability and supply/distribution of POL products for use of PROCURING ENTITY at all times in the desired quality and quantity, and shall deliver the purchased POL products at the designated delivery points.</p> <p>2. Supplier shall accept all Delivery Orders of the PROCURING ENTITY on POL products and supply the PROCURING ENTITY with the same in accordance with the guaranteed POL specifications, placing the PROCURING ENTITY requirements in the highest priority over all other requirements or commitments to any other government or civilian entity, and filling up all PROCURING ENTITY orders first from any stock available at the nearest terminal or depot of the Supplier or any other oil company with whom the Supplier has established arrangements or supply agreements.</p> <p>3. If, during the Contract period, the PROCURING ENTITY shall require types of POL products not included in Section VI: Schedule of Requirements hereof, the Supplier shall supply and deliver the additional POL requirements, provided that the supply and delivery of such shall not exceed the Contract Price.</p> <p>4. The PROCURING ENTITY shall issue final monthly/quarterly schedule of POL deliveries to Supplier in the form of DO that will be issued for the purpose. Supplier shall within twenty-four (24) hours upon receipt of delivery order from PROCURING ENTITY, confirm acceptance of the delivery schedule requested by PROCURING ENTITY.</p> <p>5. Supplier must deliver POL requirements of the PROCURING ENTITY within 24 hours in Metro Manila & other key cities, and within 48 hours in other areas and for barge deliveries, a maximum of seven (7) days period upon receipt of DO from the PROCURING ENTITY.</p> <p>6. In case of price adjustment of petroleum, the Supplier must immediately notify the PROCURING ENTITY in any fastest means of communication three (3) days prior to the increase/decrease of POL Prices and furnish copy of price of petroleum to the PROCURING ENTITY.</p> <p>7. The Supplier must have bulk plants/depots, or other storage facilities and service stations situated strategically all over the country that could service the requirements of the PROCURING ENTITY anytime on specified delivery areas. Supplier shall coordinate with the service stations in case the PROCURING ENTITY deposits its fuel allocations on specified locations. Supplier must have refilling stations/facilities for Jet A1 fuel in drums in its major depots or plants in Luzon, Visayas, Mindanao and Palawan area.</p> <p>8. Due to limited storage facilities of the PROCURING ENTITY, the Supplier shall indorse and direct a POL service station, with</p>
--	--

Section V. Special Conditions of the Contract

<p>maximum storage fee not to exceed 10% of the deposited stocks per delivery, where the PROCURING ENTITY can store its POL deliveries. For company-owned, the maximum storage fee is 5% and a Memorandum of Agreement may no longer be necessary for implementation thereof. Hence, a list of company-owned storage facilities shall be provided to the PROCURING ENTITY during contract implementation.</p> <p>9. Supplier shall make deliveries using Supplier's-owned and/or contracted transportation units at their expense for the duration of the Contract and upon any renewals or extensions thereof. Supplier must have at least two (2) delivery trucks for V-100 (AVGAS) fuel.</p> <p>10. During the implementation of the contract, the PROCURING ENTITY may increase or decrease the quantity of POL requirements in certain areas of operations or delivery points, in times of emergency or if national security so requires.</p> <p>11. In case of war, disaster, national security or national emergency, the PROCURING ENTITY may transfer its POL requirements to other location as required for the operation support, without additional cost to the PROCURING ENTITY.</p> <p>12. To ensure availability of POL in case of war (local or international) and/or national emergencies/calamities, the Supplier shall provide storage facility, at no cost to the PROCURING ENTITY, to accommodate PROCURING ENTITY's POL Reserves. The Reserves shall be immediately delivered upon notice by the PROCURING ENTITY. At the end of every contract, the Supplier and the PROCURING ENTITY shall reconcile their records.</p> <p>13. If the POL requirements of the PROCURING ENTITY are to be transferred to a location of disaster or national emergency, the Supplier may request for additional security from the PROCURING ENTITY to ensure the protection of its fuel supplies, subject for approval.</p> <p>14. Supplier must have available electronic card (e-POL or Contingency Card purchase system/facility) which can be used in all their e-POL capable service stations nationwide. Billing for using e-POL card will be based on the current selling price of host gasoline station (at the time of purchase). Rebates percentage shall apply on using e-POL card in reference to current Supplier's offer that the PROCURING ENTITY may benefit from.</p> <p>15. The PROCURING ENTITY, through the Program Directors and Commodity Managers, must have access on all card transactions for ready reference. In case of inquiry status, reports of transactions (details) must readily be made available online as provided by the Supplier. The PROCURING ENTITY's authorized representatives must have the</p>
--

Section V. Special Conditions of the Contract

<p>capability to suspend, reactivate, set transaction limits for every card in his account. (see Section VII Technical Specifications for detailed e-POL Card requirements).</p> <p>16. No imposition of additional expenses (i.e. processing fee, service fee, handling fee, etc.) shall be charged against the PROCURING ENTITY during the duration of the Contract. Any modification or adjustment that may impose additional charge against the PROCURING ENTITY shall be duly substantiated with an amendatory contract to be approved by the authorized representatives.</p> <p>17. The Supplier shall, at its own expense, repair, maintain, rehabilitate and construct POL facilities, and procure additional POL equipment for the PROCURING ENTITY in accordance with the Program of Expenditures (POEs) duly approved by the Head of the PROCURING ENTITY, equivalent to 5.5% of the Contract Price for Petroleum, and Oil and Lubricants. This will form part of the PROCURING ENTITY's Repair, Maintenance and Construction (RMC) Fund.</p> <p>18. Supplier, at their expense, shall provide training and seminar package on the handling, safety and any other related training to the operation of POL stations at least twice a year or as requested by the PROCURING ENTITY. This shall include incidental activities in the pursuance of the training/seminar.</p> <p>19. Delivery of POL for Navy ships in areas where lorry trucks cannot be accommodated and/or cannot moor alongside a pier shall be done through bunkering barge or any appropriate facility/equipment applicable at Supplier's expense.</p> <p>20. Other conditions will apply in barge deliveries:</p> <ul style="list-style-type: none">a. The notice of delivery or booking of order for Philippine Navy Ships (PNS) must be made on a working day.b. The Supplier must confirm acceptance within 24-hours upon receipt of notice/order by the PROCURING ENTITY.c. Upon notice/order, the PROCURING ENTITY must indicate the firm location of PNS and the vessels estimate time of arrival (ETA) at the given location. PROCURING ENTITY should assure that PNS will be ready to receive delivery at this firm location and time as it will be Supplier's basis for scheduling its bunkering barge.d. Should it be unavoidable for PNS to change its course/schedule and will need to refuel at a different location and date/time other than what was originally set, PROCURING ENTITY shall grant the Supplier a new set of lead-time. If the barge is already in transit to the initial location, the cost for barge diversion will be charged to PROCURING ENTITY.e. In the event that the Supplier as confirmed by the PROCURING ENTITY at any time finds that the port/bunkering

Supply and Delivery of DND-Wide POL Requirements for CY 2017

Section V. Special Conditions of the Contract

	<p>confirmation of the PROCURING ENTITY suspends any delivery until the unsafe conditions have passed or have been corrected. The Supplier, in such event, shall not be liable under the contract for failure to deliver the required POL delivery of the PROCURING ENTITY.</p> <p>f. The Supplier warrants that the Supplier's vessel including all equipment used for delivering POL products to the PROCURING ENTITY meets all the safety requirements and standards and has undergone the required pre-qualification process and regular safety inspection and maintenance to meet safety requirements and standards of the Philippines.</p> <p>g. The Supplier, subject to PROCURING ENTITY's specific requirements in a particular delivery point, shall determine the appropriate barge capacity to be used to fulfill PROCURING ENTITY's requirements. Depending on available ullage at the time of delivery and drop limitation at the location the Supplier and the PROCURING ENTITY may agree to use smaller barge.</p> <p>h. The PNS supply officer shall be the authorized receiver. In the event that the authorized receiver is not present at the time of delivery, all reasonable and documented incidental expenses due to the delay of discharging, vessel transfer and other charges shall be for the account of the PROCURING ENTITY.</p> <p>i. The PROCURING ENTITY and Supplier's representative should be present for each POL delivery in order to witness, validate and confirm the quality and quantity of POL delivered. The absence of either party to witness, validate and confirm the quality and quantity of POL delivery shall constitute as a waiver on the part of the party absent and thus quality and quantity determined during the time of delivery shall be final and to be used as basis for payment of POL deliveries.</p> <p>j. The delivery volume will be reckoned according to the Cargo Outturn Certificate (COC) at air, from the source tank. The barges will be assigned for exclusive delivery to PNS and will be emptied stripped dry upon unloading.</p> <p>k. The PROCURING ENTITY shall be responsible for all the berthing arrangement and permits for PNS.</p> <p>l. Demurrage incurred by domestic barges for POL deliveries shall be for the account of suppliers or the PROCURING ENTITY based on the following conditions:</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th align="center">Conditions</th> <th align="center">Chargeability</th> </tr> </thead> <tbody> <tr> <td>Barge arrival beyond the agreed delivery berthing window at the point of destination.</td> <td>Supplier</td> </tr> <tr> <td>Barge arrival within the agreed delivery berthing window but PNS is delayed.</td> <td>PROCURING ENTITY</td> </tr> <tr> <td>Barge arrival within the agreed delivery berthing window but within conflict with other vessels.</td> <td>PROCURING ENTITY</td> </tr> <tr> <td>Barge arrival within the agreed delivery berthing window but no ullage.</td> <td>PROCURING ENTITY</td> </tr> </tbody> </table>	Conditions	Chargeability	Barge arrival beyond the agreed delivery berthing window at the point of destination.	Supplier	Barge arrival within the agreed delivery berthing window but PNS is delayed.	PROCURING ENTITY	Barge arrival within the agreed delivery berthing window but within conflict with other vessels.	PROCURING ENTITY	Barge arrival within the agreed delivery berthing window but no ullage.	PROCURING ENTITY
Conditions	Chargeability										
Barge arrival beyond the agreed delivery berthing window at the point of destination.	Supplier										
Barge arrival within the agreed delivery berthing window but PNS is delayed.	PROCURING ENTITY										
Barge arrival within the agreed delivery berthing window but within conflict with other vessels.	PROCURING ENTITY										
Barge arrival within the agreed delivery berthing window but no ullage.	PROCURING ENTITY										

Supply and Delivery of DND-Wide POL Requirements for CY 2017

Section V. Special Conditions of the Contract

Barge arrival within the agreed delivery berthing window but no berth available.	PROCURING ENTITY
Barge arrival within the agreed delivery berthing window but cannot berth due to barge and/or crew.	Supplier
Barge arrival within the agreed delivery berthing window but the barge pumping rate is slow.	Supplier
Barge waiting time due to delayed arrival of Supplier's representative and/or surveyor.	Supplier
Barge waiting time due to delayed arrival of PROCURING ENTITY's representative.	PROCURING ENTITY
Barge's prolonged pumping time due to shore limitations	PROCURING ENTITY
Barge's prolonged pumping time due to reasons attributable to barge and/or crew.	Supplier
Barge is required to unberth and re-berth due to problems attributable to PNS.	PROCURING ENTITY
Barge is required to unberth and re-berth due to problems attributable to barge and/or crew or on the initiative of Supplier.	Supplier

m. Laytime and demurrage shall be computed based on the actual Charter Party Agreement. This agreement stipulates the terms and conditions pertaining to freight and demurrage rate and defines the responsibility of the vessel owner and charterer, in this case the Supplier. The Supplier shall furnish the PROCURING ENTITY a copy of the pertinent demurrage clause of Charter Party Agreement in the event demurrage is filed with the PROCURING ENTITY.

21. The Supplier, upon delivery of POL, shall present to the PROCURING ENTITY the Original Invoice (or delivery document) covering the particular delivery for PROCURING ENTITY's signature acknowledging receipt of the delivery, and provide PROCURING ENTITY duplicate copy of the same. The original copy of the invoice/delivery document shall be retained by the delivering party for submission to Supplier's office for billing purposes and transmitted to PROCURING ENTITY's office together with all the required supporting documents.

22. Upon delivery and receipt of the GOODS to the identified bulk plants, the Supplier shall notify the PROCURING ENTITY and present the following documents to the PROCURING ENTITY:

- (i) Original and four duplicate copies of the Supplier's invoice showing GOODS' description, quantity, unit price, and total amount, with the unit price clearly indicating the WPP, Discount, Delivery Cost and EVAT used for such delivery;
- (ii) Original and four duplicate copies delivery receipt/note, railway receipt, or truck receipt;
- (iii) Original Supplier's factory inspection report;
- (iv) Original and four duplicate copies of the Manufacturer's and/or Supplier's warranty certificate;
- (v) Original and four duplicate copies of the certificate of origin (for imported GOODS);

Section V. Special Conditions of the Contract

	<p>(vi) Delivery receipt detailing number and description of items received and signed by the authorized receiving personnel;</p> <p>23. If the PROCURING ENTITY opted to store its POL Reserves in Supplier's storage facilities as stated in para 12, Supplier shall provide certification to the PROCURING ENTITY stating the amount of POL Reserves deposited in their facility and that the Reserves shall be immediately delivered upon notice by the PROCURING ENTITY.</p> <p>Incidental Services-</p> <p>a. Effect transfer of delivery of POL products from one station to another in case the PROCURING ENTITY unit/office is transferred/redeployed to another area of operation or as requested at no additional cost to the PROCURING ENTITY.</p> <p>b. ForPROCURING ENTITY's aircraft and sea craft on mission abroad, the Supplier shall coordinate, at his expense, with appropriate Supplier in the foreign country to provide needed POL of said PROCURING ENTITY aircraft/vessel. The PROCURING ENTITY will reimburse in Philippine Currency only the acquisition cost of the said POL requirements based on the Invoice Receipt.</p> <p>c. In case of any deviations in the mode of delivery in order to meet confirmed delivery schedule at the PROCURING ENTITY's delivery points as set forth in the DO, any additional cost and logistical requirements to be undertaken for such deviation shall be the responsibility of the Supplier.</p> <p>Transportation-</p> <p>The PROCURING ENTITY accepts no liability for the damage of GOODS during transit other than those prescribed by INCOTERMS for Delivered Duty Paid (DDP) Deliveries. In the case of GOODS supplied from within the Philippines or supplied by domestic Suppliers risk and title will not be deemed to have passed to the PROCURING ENTITY until their receipt and final acceptance at the final destination.</p> <p>Insurance –</p> <p>The GOODS supplied under this Contract shall be fully insured by theSupplier in any freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. The GOODS shall remain at the risk and title of the Supplier until their final acceptance by the PROCURING ENTITY.</p> <p>Patent Rights –</p> <p>The Supplier shall indemnify the PROCURING ENTITY against all third-party claims of infringement of patent, trademark, or industrial design rights</p>
--	--

Supply and Delivery of DND-Wide POL Requirements for CY 2017

Section V. Special Conditions of the Contract

	<p>arising from the use of the GOODS or any part thereof.</p> <p>For purposes of this Clause the PROCURING ENTITY's Representative is the:</p> <p>THE QUARTERMASTER GENERAL ARMED FORCES OF THE PHILIPPINES Camp General Emilio Aguinaldo, Quezon City, Philippines</p>
<p align="center">10.1</p>	<p>Payment shall be made upon submission of a certification by the Head of the PROCURING ENTITY or its representatives to the effect that GOODS had been delivered in accordance with the terms and conditions of this Contract and have been duly inspected and accepted.</p> <p>Payment terms will be implemented through Delivery Order (DO).</p>
<p align="center">10.2</p>	<p>a. Supplier shall submit delivery/invoice receipt on billing statement for the PROCURING ENTITY to process payment of all records of transactions and contract balances to the PROCURING ENTITY.</p> <p>b. The amount to be paid by the PROCURING ENTITY for POL requirements actually delivered and duly received by it shall be the WPP less the Discount offered if any, plus Delivery Cost, at the date of actual delivery. This shall be the basis for determining the actual price payable for the units/volume delivered.</p> <p align="center">Wholesale Posted Price (WPP)</p> <p align="center">less Discount</p> <p align="center">plus Delivery Cost</p> <p align="center">(WPP – D + DC)</p> <p>For the WPP, Discounts and Delivery Cost, the amount/value must be in four (4) decimal places (Peso/liter) for the computation of billing. Four (4) decimal places for WPP, Discount and Delivery Cost values will also apply for the computations of order during the implementation of the contract.(Ex. WPP=45.1234, Discount=9.0247 or 20%, DC=0.1234)</p> <p>For Oil and Lubricants, the winning bid price shall be fixed for the entire duration of the contract and will be the basis for ordering and billing.</p> <p>For purposes of payment and determination of the actual payable price, the <i>discount/premium</i> and <i>delivery cost</i> given used as basis by the PROCURING ENTITY during the evaluation and comparison of bids shall remain fixed during the contract implementation.</p> <p>c. For staggered deliveries, the PROCURING ENTITY shall make, after every order, an accounting of the amount actually payable based on the date of the Delivery Order. This will also determine the allowable unit/volume that may still be ordered from the remaining amount allotted for each POL product. The PROCURING ENTITY shall be allowed to make adjustments in the units/volumes to be delivered per</p>

Supply and Delivery of DND-Wide POL Requirements for CY 2017

Section V. Special Conditions of the Contract

	<p>type of product to conform to the remaining amount in the total contract price.</p> <p>d. For e-POL payment, the Statement of Account (SOA) shall be the reference. The SOA shall indicate the detailed transactions of all cards, rebates and other rewards.</p>
10.3	<p>Supplier shall grant the PROCURING ENTITY an allowable thirty (30) days extension from the date of expiration of the period provided in the GCC.</p>
16.1	<p>Inspection of POL Deliveries</p> <p>All POL products delivered by the Supplier shall be subjected to inspection and random testing by the PROCURING ENTITY as required through DOE Testing Facilities in accordance with PNS, ASTM, API or other acceptable practices to the extent practicable at the Supplier's expense. In case the products fail to meet specifications, or otherwise not in conformity with this agreement, the PROCURING ENTITY shall have the right to reject the product or require its replacement at no cost to the PROCURING ENTITY.</p> <p>For Oil and Lubricants, different specifications as stated in Section VII can be accepted, provided it has the <i>same applicability</i> as specified in the end users engine oil requirements.</p> <p>In case of POL suspected contamination, the Supplier shall shoulder the cost of testing of the said POL Products.</p>
17.3	<p>The Supplier warrants that the GOODS assured of quality for three (3) months after acceptance by the PROCURING ENTITY of the delivered Goods.</p>
17.4 and 17.5	<p>The period for correction of defects in the warranty period is within 24 hours in Metro Manila & other key cities, and within 48 hours in other areas.</p>
19.0	<p>For the payment of Liquidated Damages, the applicable rate is one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay.</p> <p>The maximum deduction shall be ten percent (10%) of the amount of contract. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, the PROCURING ENTITY may rescind the contract, without prejudice to other courses of action and remedies open to it.</p>
20.4	<p>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."</p>

Supply and Delivery of DND-Wide POL Requirements for CY 2017

Section V. Special Conditions of the Contract

21.1	Sanctions such as but not limited to waiver of Delivery Cost (DC) may be imposed on the Supplier by the PROCURING ENTITY if: a. Non-conformance to the following during contract implementation: i. For Petroleum - WPP, Discount, Delivery Cost; ii. For Oil and Lubricants – Fixed Price iii. For e-POL Cards – Imposition of Additional Charges b. Failure of POL delivered to pass random testing.
-------------	---