

Section V. SPECIAL CONDITIONS OF CONTRACT

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GCC CLAUSE	PARTICULARS
1.1(g)	The PROCURING ENTITY is Department of National Defense / Armed Forces of the Philippines (DND/AFP)
1.1(i)	The Supplier is <i>[to be inserted at the time of contract award]</i> .
1.1(j)	<p>The Funding Source is:</p> <p>The Government of the Philippines (GOP) through General Appropriation Act (GAA) RA 10717: PHILIPPINE ARMY Appropriation for Fiscal Year 2016 with ASA NR 2600-2016-0025 dated 24 February 2016 with the sum of One Hundred Million, Six Hundred Ten Thousand, Nine Hundred Ninety-One Pesos (PHP 100,610,991.00), Philippine currency.</p> <p>Funds for this project will expire on 31 Dec 2017.</p>
1.1(k)	<p>The Project Delivery Site shall be at: Signal Warehouse, ASCOM, PA, Fort Bonifacio, Metro Manila, Philippines, 1110</p>
5.1	<p>The PROCURING ENTITY's address for Notices is:</p> <p style="text-align: center;">DND Bids and Awards Committee Basement Right Wing, DND Building Camp General Emilio Aguinaldo Quezon City, Philippines 1110 Tel Nr: 911-6001 Loc 8414 Telefax Nr. (632) 421-3531</p> <p>Copy Furnish:</p> <ol style="list-style-type: none"> a. Chief, DAO b. Office of the Deputy Chief of Staff for Logistics, J4 c. Chairman, PATWG for the Procurement of One (1) Lot Spare Parts for the Repair and Maintenance of Harris Handheld and Manpack Radios of the Philippine Army <p>The Supplier's address for Notices is: _____</p>
6.2	<p>Delivery and Documents –</p> <p>For purposes of the Contract, “EXW,” “FOB,” “FCA,” “CIF,” “CIP,” “DAP”, “DDP”, “DAT” and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of INCOTERMS published by the International Chamber of Commerce, Paris. The Delivery terms of this Contract shall be as follows:</p> <p><i>The End-user Certificate, if required by the country of origin, shall be provided by the Procuring Entity to the Supplier after the issuance of Notice to Proceed.</i></p>

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	<p>FOR FOREIGN SUPPLIERS</p> <p>The delivery term applicable to the Contract is DDP subject to tax, VAT and customs duty exemption pursuant to Article 9.3 Chapter 9 DO No. 3 dated 11 April 2013, IGRR of the Revised AFP Modernization Act (RA 10349), at Signal Warehouse, ASCOM, PA, Fort Bonifacio, Metro Manila, Philippines 1110 in accordance with INCOTERMS.</p> <p>In case of Foreign Suppliers with local distributor/local agent, the delivery term shall incorporate the provisions of exclusive distributorship agreement between the Foreign manufacturer and local distributor/local agent such that the act of the local agent/distributor shall bind the foreign supplier.</p> <p>Delivery of the GOODS shall be made by the Supplier in accordance with the terms specified in Section VI. Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are as follows:</p> <p>Upon shipment, the Supplier shall notify the PROCURING ENTITY and the insurance company by cable the full details of the shipment, including Contract Number, description of the GOODS, quantity, vessel, bill of lading number and date, port of loading, date of shipment, port of discharge etc. Upon delivery to the Delivery Site, the Supplier shall notify the PROCURING ENTITY and present the following documents as applicable with the documentary requirements of any letter of credit issued taking precedence:</p> <ol style="list-style-type: none"> a. Original and four copies of the Supplier's invoice showing GOODS' description, quantity, unit price, and total amount; b. Original and four copies of the negotiable, clean shipped on board bill of lading marked "freight pre-paid" and five copies of the non-negotiable bill of lading ; c. Original Supplier's factory inspection report; d. Original and four copies of the Manufacturer's and/or Supplier's warranty certificate; e. Original and four copies of the certificate of origin (for imported

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	<p>GOODS);</p> <p>f. Original and four copies of permanent export license for controlled military items, if the GOODS is a controlled military item in the originating country;</p> <p>g. Delivery receipt detailing number and description of items received signed by the PROCURING ENTITY’s representative at the Delivery Site;</p> <p>h. Four (4) copies of the SAO’s Acceptance Report signed by the PROCURING ENTITY’s representative at the Delivery Site.</p> <p>i. Certificate of Pre-Delivery Inspection by the PROCURING ENTITY;</p> <p>j. Copy of Insurance Policy & Paid Premiums for all Test Risk Insurance.</p> <p>FOR DOMESTIC SUPPLIERS</p> <p>The delivery term applicable to this Contract is DDP at Signal Warehouse, ASCOM, PA, Fort Bonifacio, Metro Manila, Philippines 1110. Risk and title will pass from the Supplier to the PROCURING ENTITY upon receipt and final acceptance of the GOODS at their final destination.</p> <p>Delivery of the GOODS shall be made by the Supplier in accordance with the terms specified in Section VI. Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are as follows:</p> <p>Upon delivery of the Goods to the Project Site, the Supplier shall notify the Procuring Entity and present the following documents to the Procuring Entity:</p> <p>a. Original and four copies of the Supplier’s invoice showing Goods’ description, quantity, unit price, and total amount;</p> <p>b. Original and four copies delivery receipt/note, railway receipt, or truck receipt;</p>

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	<p>c. Original Supplier’s factory inspection report;</p> <p>d. Original and four copies of the Manufacturer’s and/or Supplier’s warranty certificate;</p> <p>e. Original and four copies of the certificate of origin (for imported Goods);</p> <p>f. Delivery receipt detailing number and description of items received signed by the authorized receiving personnel;</p> <p>g. Four copies of the Invoice Receipt for Property signed by the Procuring Entity’s representative at the Project Site.</p> <p>h. Four (4) copies of the SAO’s Acceptance Report signed by the PROCURING ENTITY’s representative at the Delivery Site.</p> <p>i. Certificate of Pre-Delivery Inspection by the PROCURING ENTITY;</p> <p>j. Copy of Insurance Policy & Paid Premiums for all Test Risk Insurance.</p> <p>For purposes of this Clause the PROCURING ENTITY’s Representative at the Delivery Site is:</p> <p>Chairman, PATIAC APAO Representative MFO Representative ASR Representative/s Chairman, PA TWG for this Project</p> <p>Incidental Services –</p> <p>The Supplier is required to provide all of the following services, including additional services, if any, as specified in Section VI - Schedule of Requirements.</p> <p>The Contract price for the GOODS shall include the prices charged by the Supplier for incidental services and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.</p> <p>Spare Parts – Not applicable</p>

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	<p>Repair and Maintenance – Not Applicable</p> <p>Packaging –</p> <p>The Supplier must provide such packaging of the GOODS as is required to prevent their damage or deterioration during transit to their final destination, as indicated in this Contract. The packaging shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packaging case size and weights shall take into consideration, where appropriate, the remoteness of the GOODS' final destination and the absence of heavy handling facilities at all points in transit.</p> <p>The packaging, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified below, and in any subsequent instructions ordered by the PROCURING ENTITY.</p> <p>The outer packaging must be clearly marked on at least four (4) sides as follows:</p> <p>Name of the PROCURING ENTITY Name of the Supplier Contract Description Final Destination Gross weight Any special lifting instructions Any special handling instructions Any relevant HAZCHEM classifications</p> <p>A packaging list identifying the contents and quantities of the package is to be placed on an accessible point of the outer packaging if practical. If not practical the packaging list is to be placed inside the outer packaging but outside the secondary packaging.</p> <p>Insurance –</p> <p>The GOODS supplied under this Contract shall be fully insured by the Supplier in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. The GOODS remain at the risk and title of the Supplier until their final acceptance by the PROCURING ENTITY.</p> <p>Transportation –</p> <p>Where the Supplier is required under Contract to deliver the GOODS</p>

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	<p>DAP, transport of the GOODS to the named place of destination in the Philippines, as shall be specified in this Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.</p> <p>Where the Supplier is required under this Contract to transport the GOODS to a specified place of destination within the Philippines, defined as the Project Site, transport to such place of destination in the Philippines, including insurance and storage, as shall be specified in this Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.</p> <p>Where the Supplier is required under Contract to deliver the Goods DDP, Goods are to be transported on carriers of Philippine registry. In the event that no carrier of Philippine registry is available, GOODS may be shipped by a carrier which is not of Philippine registry provided that the Supplier obtains and presents to the PROCURING ENTITY certification to this effect from the nearest Philippine consulate to the port of dispatch. In the event that carriers of Philippine registry are available but their schedule delays the Supplier in its performance of this Contract the period from when the GOODS were first ready for shipment and the actual date of shipment the period of delay will be considered <i>force majeure</i> in accordance with GCC Clause 22.</p> <p>The PROCURING ENTITY accepts no liability for the damage of GOODS during transit other than those prescribed by INCOTERMS for DAP Deliveries. Risks 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>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 arising from use of the GOODS or any part thereof.</p> <p>The Supplier shall provide complete listing of Contractor, Sub-contractor and Third Party Intellectual Properties developed under the contract, which should be owned by the DND/AFP.</p>
7.2	No further instructions.
9	For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR.

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10.1	<p>Payment shall be made only upon submission of the required auditorial document and issuance of Advise of Payment by the appropriate official or his duly authorized representative as provided for under Section 12 DND DO #12/Executive Order # 423.</p> <p>If payment is through a Letter of Credit (L/C)</p> <p>The PROCURING ENTITY shall open the irrevocable L/C in favor of the Supplier in accordance with the terms provided below in an Authorized Government Depository Bank after the approval of the Contract by the Secretary of National Defense and the issuance of the Notice of Cash Allocation by the Secretary of Budget and Management, to wit:</p> <p>a. <u>Mode of Transmission</u>: Full cable telex/S.W.I.F.T;</p> <p>b. <u>Advising and/or Confirmation</u>: L/C may be advised and/or confirmed by any authorized government depository bank to be identified by the Supplier, at the latter's sole expense;</p> <p>c. <u>Payee Bank</u>: The L/C draft (if any) shall be drawn on the confirming bank;</p> <p>d. <u>Beneficiary</u>: [Insert name and address of Supplier with Point of Contact];</p> <p>e. <u>Currency and Amount of L/C</u>: L/C may be opened in foreign denominated currency provided that the equivalent amount shall be based on the Total Peso Contract Price.</p> <p>f. <u>Expiration Date</u>: 150 calendar days from issue date of the L/C;</p> <p>g. <u>Payment Scheme</u>:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Advance Payment</td> <td style="width: 45%;">15% of Contract Price (less 10% as Retention Money)</td> <td style="width: 30%;">Within sixty (60) calendar days from signing of the contract days upon submission of irrevocable L/C or Bank Guarantee of equivalent amount issued a universal bank or commercial bank which shall remain valid until the goods are delivered, and accompanied by a claim for advance payment.</td> </tr> </table>			Advance Payment	15% of Contract Price (less 10% as Retention Money)	Within sixty (60) calendar days from signing of the contract days upon submission of irrevocable L/C or Bank Guarantee of equivalent amount issued a universal bank or commercial bank which shall remain valid until the goods are delivered, and accompanied by a claim for advance payment.
Advance Payment	15% of Contract Price (less 10% as Retention Money)	Within sixty (60) calendar days from signing of the contract days upon submission of irrevocable L/C or Bank Guarantee of equivalent amount issued a universal bank or commercial bank which shall remain valid until the goods are delivered, and accompanied by a claim for advance payment.				

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	<u>10% Retention Money</u>	Upon expiration of one (1) year warranty period after the goods acceptance in-country.
	<p>h. <u>Drawdown Documentary Requirements</u>: Partial Payment for Partial Delivery shall be allowed. Full Payment shall be made to the Supplier upon completion of the delivery of goods in accordance with Section VI. Schedule of Requirements, and the submission or presentation of the following documents as necessary:</p> <ul style="list-style-type: none"> i. Supplier's invoice showing GOODS' description, quantity, unit price, and total amount; ii. Negotiable, clean shipped on board Bill of Lading marked "Freight Pre-Paid" and/or "Non-Negotiable Bill of Lading" or "Airway Bill"; iii. Original Suppliers Factory Inspection Report and/or Certificate of Pre Delivery Inspection by the Procuring Entity's Pre Delivery Inspection Team (PDIT); iv. Manufacturer's and/or Supplier's Warranty Certificate; v. Manufacturer's Guaranty Certificate to Secure and Process the Export Clearance from the Country of Origin. vi. Certificate of Origin (for imported GOODS); vii. Delivery Receipt detailing number and description of items received signed by the Procuring Entity's representative at the Delivery Site; viii. Test / Trials Results (For all Testing/ Trials to be conducted) ix. Certificate of Acceptance by the Philippine Army Technical Inspection and Acceptance Committee (TIAC); x. AFP Management and Fiscal Office (AFP MFO) Inspection Report; xi. APAO Acceptance Report; xii. Copy of Insurance Policy/ Paid Premium; xiii. Copy of Warranty Security as per GCC Clause 17; and xiv. Advice of Payment by the Secretary, Department of National Defense or his authorized representative; 	

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	<p>i. <u>Description of Goods</u>: One (1) Lot Brand New Spare Parts for the Repair of Harris RF5800H-MP 20 Watts, HF/SSB Radios and Harris RF5800V-HH 2-5 Watts, VHF/FM Radios of the Philippine Army.</p> <p>j. <u>Delivery Term</u>: DDP at Signal Warehouse, ASCOM, PA, Fort Bonifacio, Metro Manila.</p> <p>k. <u>Latest Date of Delivery</u>: Complete delivery within One Hundred Twenty (120) calendar days upon receipt of NTP, which is the receipt of Notice to Proceed by the Supplier, which date shall not be later than Seven (7) calendar days from the issuance of the NTP; should the supplier fail to comply, the delivery period shall commence.</p> <p>l. <u>Shipment</u>: Partial shipment; transshipment is acceptable.</p> <p>m. <u>Negotiability</u>: The L/C shall be irrevocable;</p> <p>n. <u>Liquidated Damages</u>: Liquidated damages shall be imposed in accordance with Clause 19 of the Contract.</p> <p>o. <u>Other Instructions</u>:</p> <p>i. The cost of the opening, as well as advising, confirmation, extension, and/or amendment, if any, of the L/C, and other bank charges shall be for the account of the Supplier; and shall be paid by the supplier within Four (4) calendar days upon receipt of notification from the contract implementer on the selected Authorized Government Depository Bank (AGDB).</p> <p>ii. The L/C must be in English; and</p> <p>iii. No boycott or restrictive language;</p>
10.4	No further instructions.
11.4	No further instructions.
13.1	No further instructions.
13.4	No further instructions.
16.1	<p>The inspections and tests that will be conducted are:</p> <p>a. Post Qualification Inspection involving documents validation and manufacturer's plant visit shall be conducted by the Procuring Entity or its designated representatives (Post Qualification Team) to determine the compliance to the requirements of the end-user as required in the bidding documents. Expenses incurred related hereto particularly travel and board and lodging expenses shall be borne by the Procuring Entity.</p> <p>b. Pre Delivery Inspection (PDI) shall be conducted with the request of the supplier's and approval of the Head of the Procuring Entity (HOPE),</p>

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	<p>with functional testing at the Supplier's factory/assembly plant prior to the delivery of the GOODS by at least four (4) but not more than seven (7) members of the PDI Team composed of DND Representative, PATIAC Representative, PATWG member for this Project and End user/Commodity manager representative who will supervise the said inspection, to ensure that the GOODS to be delivered are in accordance with the required technical specifications. Inspections and tests that will be conducted shall be based on the Procuring Entity's product specifications and Test and Acceptance Procedures (TAP). In the absence of test facilities, the manufacturer's test procedure and/or product certificates shall be used. Expenses shall be borne by the Supplier.</p> <p>c. Final Inspection and Acceptance after the GOODS' arrival at the Project Delivery Site to be conducted by the Philippine Army Technical Inspection and Acceptance Committee (PATIAC), PA MFO, APAO and to be assisted by the Technical Working Group. The inspection includes Visual Inspection and Functional Testing at the Project Site. After completion of the inspection, the PATIAC shall furnish the following reports:</p> <p>d. The PROCURING ENTITY shall issue the following documents after the successful completion of the above-cited activities:</p> <ol style="list-style-type: none"> i. After Post Qualification Report ii. Certificate of Pre Delivery Inspection to be certified by the Chairman, PDI Team; iii. Certificate of Final Inspection and Acceptance by the PATIAC; iv. PA MFO Inspection Report; v. SAO/APAO Acceptance Report; vi. Advice of Payment from the HOPE, Secretary of National Defense or his duly authorized official. <p><i>Note: The Supplier shall provide the required number of units of GOODS that will be used and expended as part of the inspections and tests required above, at no charge to the PROCURING ENTITY.</i></p> <p><i>The supplier shall furnish to the inspectors all reasonable facilities and assistance, provide records/related documents of the GOODS at no charge to the PROCURING ENTITY during the inspections. During the PDI, the supplier shall bear all costs and expenses of travel including accommodation, Daily Subsistence Allowance (DSA) pursuant to Sec 8 of EO 298 and securing Visas as necessary and travel insurance of all inspection team members. The supplier is required to issue the written</i></p>

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	<p><i>invitation relative to PDI to the concerned procurement service within 60 days from the receipt of NTP.</i></p> <p><i>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.</i></p>
17.3	<p>The goods to be delivered must have been manufactured not more than one (1) year from the date of delivery. The manufacturer shall issue a certification that the goods came from lots manufactured within the prescribed production period.</p> <p>The supplier shall be required to issue a Warranty Certificate for a at least One (1) calendar year after the final acceptance by the Procuring Entity of the delivered Goods.</p> <p>The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least Ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least Ten percent (10%) of the Contract Price.</p>
17.4	<p>The period of correction of defects in the warranty period is within Sixty (60) calendar days upon receipt of notice from the PROCURING ENTITY of any claim arising from the warranty obligation of the supplier.</p> <p>The warranty should cover any and all defects that may be discovered during the warranty period.</p>
17.5	No further instructions.
19.1	The liquidated damages shall be one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay not to exceed 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.
20.4	In the case of a dispute between the PROCURING ENTITY and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."
21.1	No further instruction.