

Section V. Special Conditions of the Contract

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GCC Clause	
1.1(g)	The Procuring Entity is <i>the Armed Forces of the Philippines (Philippine Navy)</i> .
1.1(i)	The Supplier is <i>[to be inserted at the time of contract award]</i> .
1.1(j)	The Funding Source is The Government of the Philippines (GOP) through PHILIPPINE NAVY APPROPRIATIONS in the amount of Three Hundred Thirteen Million Three Hundred Eighty Two Thousand Three Hundred Sixteen Pesos and Ninety Three Centavos (Php 313,382,316.93) .
1.1(k)	The Project Site is <i>at the drydocking facility not more than 100 NM from the present position of PS37 at Naval Shipyard, Cavite City capable of accommodating PS-37.</i>
2.1	No further instructions.
5.1	The Procuring Entity's address for Notices is: DND-BAC Secretariat Basement, Right Wing DND Bldg. Camp General Emilio Aguinaldo Quezon City, Philippines 1110 Telephone No. (632) 911-6001 local 8414 Telefax: (632) 421-3531 The Supplier's address for Notices is: _____
6.2	Delivery and Documents – For purposes of the Contract, "DDP" 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: "The delivery terms applicable to the Contract are DDP delivered contractor's facility. In accordance with INCOTERMS." 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>For Goods Supplied from Within the Philippines, state "The delivery terms applicable to this Contract are delivered contractor's facility.</i>

Risk and title will pass from the Supplier to the Procuring Entity upon receipt and final acceptance of the Goods at their final destination.”

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:

For Goods supplied from within the Philippines:

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:

- (i) Original and four copies of the Supplier’s invoice showing Goods’ description, quantity, unit price, and total amount;
- (ii) Original and four copies delivery receipt/note, railway receipt, or truck receipt;
- (iii) Original Supplier’s factory inspection report;
- (iv) Original and four copies of the Manufacturer’s and/or Supplier’s warranty certificate;
- (v) Original and four copies of the certificate of origin (for imported Goods);
- (vi) Delivery receipt detailing number and description of items received signed by the authorized receiving personnel;
- (vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity’s representative at the Project Site; and
- (viii) Four copies of the Invoice Receipt for Property signed by the Procuring Entity’s representative at the Project Site.
- (ix) Delivery of parts and materials for machineries and equipment shall be accompanied with OEM Certification. In cases of replacement parts, it shall be accompanied with corresponding Service Bulletin from the OEM.

For Goods supplied from abroad:

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 Project 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:

- (i) Original and four copies of the Supplier’s invoice showing Goods’ description, quantity, unit price, and total amount;
- (ii) 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 ;
- (iii) Original Supplier's factory inspection report;
 - (iv) Original and four copies of the Manufacturer's and/or Supplier's warranty certificate;
 - (v) Original and four copies of the certificate of origin (for imported Goods);
 - (vi) Delivery receipt detailing number and description of items received signed by the Procuring Entity's representative at the Project Site;
 - (vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity's representative at the Project Site; and
 - (viii) Four copies of the Invoice Receipt for Property signed by the Procuring Entity's representative at the Project Site.
 - (ix) Delivery of parts and materials for machineries and equipment shall be accompanied with OEM Certification. In cases of replacement parts, it shall be accompanied with corresponding Service Bulletin from the OEM.

For purposes of this Clause the Procuring Entity's Representative at the Project Site is **Commander, Naval Sea Systems Command (CNSSC), or his authorized representative.**

Incidental Services

The Supplier is required to provide all of the following services, including additional services, if any, specified in Section VI – Schedule of Requirements:

- (a) Performance or supervision of on-site assembly and/or start-up of the supplied Goods.
- (b) Furnishing of tools required for assembly and/or maintenance of the supplied Goods.
- (c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods.
- (d) Performance or supervision or maintenance and/or repair of the supplied Goods, for a period agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this contract.

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.

Packaging –

The Supplier shall 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.

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.

The outer packaging must be clearly marked on at least four (4) sides as follows:

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

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.

Spare Parts

The Supplier is required to provide all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

- (a) such spare parts as the PROCURING ENTITY may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under this Contract; and
- (b) in the event of termination of production of the spare parts:
 - i. advance notification to the PROCURING ENTITY of the pending termination, in sufficient time to permit the PROCURING ENTITY to procure needed requirements;
 - ii. following such termination, furnishing at no cost to the PROCURING ENTITY, the drawings and specifications of the spare parts, if requested.
- (c) The supplier shall present the brand new repair parts with an OEM Certification to the Procuring Entity's Authorized representative prior to installation.

Insurance –

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.

Transportation –

Where the Supplier is required under Contract to deliver the Goods DDP, transport of the Goods to the port of destination or such other 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.

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.

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 *force majeure* in accordance with **GCC** Clause 22.

The Procuring Entity accepts no liability for the damage of Goods during transit other than those prescribed by INCOTERMS for 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.

Patent Rights –

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.

Notarial Fee -

Notarial expenses of contract agreement shall be shouldered by the bidder.

Other Terms and Conditions –

1. Start of Contract implementation will be on 02 November 2018.

2. The Contractor is responsible to tow the vessel from its present berth to the drydocking facility that will be used for this project and back to Naval Shipyard, as necessary, after the completion of the project.
3. The Contractor, if opted to conduct works at overhauling facility, shall remove the equipment/machineries from the vessel, deliver to overhauling facility, return to vessel and reinstall same until satisfactory completion of works.
4. The winning Contractor shall present a work schedule on MS Project format for the duration of the repair.
5. The Contractor shall allow Naval Combat Systems Center (NCSC) and Naval Information Communication Technology Center (NICTC) technical personnel to conduct inspections, installation, repair, maintenance and operation of any weapons, communications, electronics, information and navigational equipment during the conduct of the repair.
6. The contractor shall allow the PN Representatives/ships complement ingress/egress to the contractor's premises during the implementation of works under contract.
7. The contractor, upon notification from the PN, shall allow passage of other contractor's personnel, equipment, and materials in the conduct of other repairs.
8. The Contractor shall request approval from the Commanding Officer/OIC prior entry to the following spaces: Bridge, CIC, Radio Room and Armory/Magazine Room.
9. The Contractor shall request for a final PN TIAC inspection upon satisfactory completion of installation, operational test, dock and sea trial for the contracted works to the CSAFP thru Chief, 302nd Contracting Office.
10. The Contractor will present the status of repair in powerpoint to the FOIC, PN, CPF, or CNSSC or any of their authorized representatives as requested. Electronic and hard copies of the presentation shall also be provided.
11. The contractor shall provide POL products and other consumable items during preliminary testing of machinery and equipment repaired/overhauled. If satisfactory, the end-user shall provide POL products during the conduct of final test (endurance run). However, if unsatisfactory, the contractor shall provide POL products necessary for subsequent test/s until the machinery and equipment run satisfactorily.
12. In the contract implementation, the contractor shall implement only works stated in Section VII: Technical Specifications of the bidding documents.
13. For growth works necessary to complete a particular contracted activity that are not more than ten (10) percent of the submitted bid proposal for the project, the contractor shall

submit condition report, with cost estimate or quotation, duly noted by CO, to CNSSC/CNAVSHIP as soon as possible. The same shall be implemented once the contract has been amended in accordance with the provisions of RA9184.

14. For growth works necessary to complete a particular contracted activity that are more than ten (10) percent of the submitted bid proposal for the project, the contractor shall submit condition report, with cost estimate or quotation, duly noted by CO, to CNSSC/CNAVSHIP as soon as possible. The same will be processed in accordance with the provisions of RA9184.

15. The contractor shall identify necessary growth repairs before reaching the date equivalent to twenty five (25%) percent of the delivery period.

16. In case the implementation of works covered under this contract could not proceed unless growth repairs and/or necessary works have been conducted, the supplier should request from the Head of the Procuring Entity for the extension/suspension of the period of delivery.

17. In the event the request of the supplier for extension of delivery period is granted, or the contract was suspended due to force majeure, the Procuring Entity shall not be held liable for any additional charges such as, but not limited to, wharfage, re-docking, undocking, laydays, and other dockyards services and incidental costs arising from the extension or suspension of contract.

18. The supplier should drydock the vessel in its facility not more than 100 NM from the present position of PS37 at Naval Shipyard, Cavite City and capable of protecting the vessel for natural calamities which may necessitate the supplier to re-launch or undock the vessel, supplier SHOULD NOT charge or bill the Procuring Entity for any amount of whatever nature arising from re-launching and re-docking thereof.

19. Once the contractor has started any of the contracted work, such as towing of the vessel, the obligation to protect the same from any damage attaches until the same has been delivered and accepted by the Procuring Entity.

20. PN Standard Paints shall be used in the preservation of the bottom hull, freeboard and inner hull (ships interior). The contractor must submit Technical Report/s issued by the paint supplier.

21. The contractor shall render Weekly Repair Progress Report (every Thursday) to CNSSC/CNAVSHIP/F10/N10/OCF10 through the fastest means of communication using the tabulated weighted percentage format of NSSC.

22. The total weight of steel plates consumed must be computed based on the actual weight of steel plates installed onboard as

	<p>the basis in the computation of payment.</p> <p>23. All activities in the contract that are no longer necessary for implementation as agreed by both parties, shall not be paid.</p> <p>24. Only actual works done satisfactorily as certified by PN TIAC shall be included for payment.</p> <p>25. The utilization of generated repair savings should be first approved by the Procuring Entity (CSAFP thru FOIC, PN) through the endorsement of PRAD (NSSC). Works done without approval by the [CSAFP thru FOIC, PN (Attention: AC of NS for Naval Systems Engineering, N10)] shall be free of charge in favor of the Procuring Entity.</p> <p>26. The contractor must provide adequate firefighting personnel with the necessary firefighting equipment for the entire duration of the repair.</p> <p>27. The contractor shall be held liable for any damages incurred on the ship and/or personnel due to the contractor's fault or negligence for the entire duration of the contract.</p> <p>28. The contractor shall be responsible to ensure the safety of PN personnel from hazardous materials/substances inside their facility.</p> <p>29. If there are specifications that require the opening of machinery, piping, fittings, etc., it is understood that the contractor shall close such machinery, piping, fittings, etc., back into their original condition without cost to the Procuring Entity.</p> <p>30. Should the contractor requires the removal or shifting of any part of the vessel's fittings, stores, fuel, water, outfit, equipment, or piping for carrying out the work specified or implied, it shall remove the same at its own cost, and such removals shall be subsequently reinstalled in a satisfactory manner without cost to the Procuring Entity. The contractor shall be held responsible for the protection of existing and newly installed equipment and materials. Any loss or damage due to the contractor's fault shall be renewed/restored/repared at the contractor's expense.</p> <p>31. All interferences necessary to accomplish the work activities shall be removed and restored to their original condition without cost to the Procuring Entity.</p> <p>32. All metal scraps, ferrous or non-ferrous, fittings, machineries and equipment parts dismantled and removed from the vessels and replaced with new ones by the contractor resulting from the actual repair of the vessel conducted by the contractor shall remain the property of the PN and shall, after completion of the work, be accounted for IAW proper AFP accounting procedures.</p> <p>33. The contractor shall notify the CNSSC/CNAVSHIP at least</p>
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	<p>seven (7) days before the conduct of any shop or shipboard test and ten (10) days before the conduct of dock and sea trials.</p> <p>34. Upon satisfactory completion of works and testing, a Certificate of Acceptance on all completed works shall be properly signed by members of the PN TIAC.</p> <p>35. Upon acceptance by the PN TIAC of the contracted project, the contractor shall release the vessel from their shipyard.</p> <p>36. The Contractor shall submit the After Repair Completion Report to the procuring entity [AFP thru FOIC, PN (Attention: AC of NS for Naval Systems Engineering, N10)] prior payment of the services rendered.</p> <p>37. The supplier shall not disclose/divulge any information and communication, whether oral or written, secured in the course of the bidding with the Philippine Navy/Armed Forces of the Philippines (PN/AFP) to any other person or entity, without the express written consent of the PN/AFP. It includes non-disclosure of, but not limited, to the following: a) Bidding Document, b) Technical Specification of the Project, c) Annual Procurement Plan and related Project Procurement Management Plan, and d) Proposals.</p> <p>38. The contractor shall prepare and provide five hard (5) copies, including the electronic copy, of shell expansion plan of the hull indicating therein all the thickness readings.</p>
7.1	Subcontracting is allowed, as necessary, for the overhauling of diesel generators by the OEM authorized service providers.
10.1	<p>Payment shall be made only upon a certification by the Head of the Procuring Entity (HoPE) 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 by the PNTIAC, with the following schedule:</p> <p>1.1 First Progress Payment: Six Percent (6%) of the total contract amount minus five percent (5%) retention money upon completion of the work items nr: 1 and 17.</p> <p>1.2 Second Progress Payment: Twenty Percent (20%) of the total contract amount minus five percent (5%) retention money upon completion of the work items nr: 2 – 16.</p> <p>1.3 Third Progress Payment: Seven Percent (7%) of the total contract amount minus five percent (5%) retention money upon completion of the work items nr: 18 – 23.</p> <p>1.4 Fourth Progress Payment: Fifty Percent (50%) of the total contract amount minus five percent (5%) retention money upon completion of the work items nr: 24 – 136.</p> <p>1.5 Fifth Payment: Seven Percent (7%) of the total contract amount minus five percent (5%) retention money upon</p>

	<p>completion of the work items nr: 137.</p> <p>1.6 Final Payment: Remaining Amount equivalent to Ten Percent (10%) of the total contract amount minus five percent (5%) retention money upon satisfactory conduct of final sea trial and testing of other newly repaired/installed/integrated systems as determined by PN TIAC.</p> <p>Retention money shall be released only upon expiration of the warranty period specified in GCC 17.3.</p>
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 fulfilment of other obligations stipulated in this Contract.
10.4	Payment shall be made in Philippine Peso.
10.5	Payment using LC is not allowed.
11.2	Payment shall be made only upon satisfactory delivery of goods and/or satisfactory performance of service as shown in the required TIAC report as well as compliance to existing laws, principles and rules specifically on accounting and Auditorial procedures.
13.4(c)	"No further instructions".
16.1	<p>The supplier of parts for the machinery/equipment must submit a Valid and Current Certificate issued by the Original Equipment Manufacturer (OEM).</p> <p>The procedures in the conduct of inspections, test and evaluations by the PNTIAC are: Visual Inspection, Hydro Test, Leak Test, Crack Test, Clearance/Dimensional Reading, Vibration Test, Operational Test and Dock and Sea Trials.</p> <ol style="list-style-type: none"> a. The quality and proof of performance shall be established through tests and trials. The vessel shall undergo functional test to verify the correct installation and integration of equipment and safe function of systems. b. The contractor shall prepare the Test Memoranda, which shall be concurred by the PN based on established PN Test Memoranda, for all the vessel's systems/machineries/equipment within the contract to include but not limited to the test and trials listed in para (c). c. The major Test and Trials that encompasses all vessel's system and to be conducted are as follows: <ol style="list-style-type: none"> 1) Dock trial for a period of not less than one (1) hour; 2) Initial sea trial for at least one (1) hour; and

	<ul style="list-style-type: none"> 3) TIAC trial for a period of at least two (2) hours. 4) The functional tests and trials of machineries and equipment shall be conducted in order to prove that they function efficiently on board the vessel. The trials shall encompass the following: <ul style="list-style-type: none"> a) Machinery Operations; b) Electrical Power Supply 5) During the conduct of the TIAC trial, a Technical Inspection and Acceptance Committee (TIAC) shall board the vessel to observe the proper conduct of the trials based on, but not limited to, the test memoranda. The TIAC report shall be the basis whether the PN will accept the vessel or not. 6) The PROCURING ENTITY shall issue the following documents after the successful completion of the Final Acceptance Test: <ul style="list-style-type: none"> a) Certificate of Final Acceptance by the TIAC b) MFO Inspection Report c) SAO Acceptance Report d) End-user Acceptance
17.3	<p>The obligation for the warranty shall be covered by retention money in an amount equivalent to five percent (5%) of the Contract Price. The said amounts shall only be released after the lapse of the warranty period.</p> <p>One (1) year warranty after issuance of the Certificate of Final Acceptance.</p> <p>The one year warranty period shall be reckoned from the date of issuance of the certificate of final acceptance. However, if the same defects occurred for three (3) consecutive times within the warranty period on a particular part/item and its attendant part, the said /item must be replaced with brand new, and shall be provided with a new warranty period of one year which shall commence upon conduct of satisfactory operational test.</p> <p>Furthermore, the warranty for any major overhauling and repairs of machineries shall be within one year from the date of acceptance or until such machineries or equipment has accumulated 1,000 running hours whichever comes later.</p>
17.4	<p>The period for correction of defects in the warranty period is fifteen (15) calendar days from the receipt of Contractor of the Notice of Defect.</p>
17.5	<p>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</p>

	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.
19	<p>The applicable rate is one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay.</p> <p>The maximum deduction shall be ten percent (10%) of the amount of contract. Once the cumulative amount of liquidated damages went beyond 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	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	<p>a. The responsibility of the ship is transferred to the Contractor as soon as the last line of the ship is cast off from the pier/wharf it is berthed for the purpose of towing from the ship's berth to the drydocking facility to be used for the project.</p> <p>b. The liability of the Supplier shall not exceed the total Contract Price. However, when there is negligence or willful misconduct on the part of the Supplier, its subcontractors or employees, the Supplier shall be liable for the cost of repairing or replacing the vessel or any part thereof which was damaged or lost.</p> <p>c. While the vessel is undergoing upgrade, the matter of providing protection against fire and flooding shall be the responsibility of the supplier.</p> <p>d. Safety of the vessel while the same is being towed within the Supplier's facility shall be the responsibility of the Supplier. Thus, the Supplier shall be liable for the loss/damage of the vessel irrespective of the cause thereof.</p> <p>e. In case of unsatisfactory performance of the supplier of any activities under the contract, the incidental expense to re-undertake/correct the failed activity shall be shouldered by the supplier.</p> <p>f. <i>In case of a joint venture</i>, "All partners to the joint venture shall be jointly and severally liable to the Procuring Entity."</p>