

23.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The head of the Procuring Entity may terminate a Contract for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically or impractical and/or un necessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.

23.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within *thirty (30)* calendar days after the Supplier's receipt of Notice to terminates shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:

(a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or

(b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed Goods and or for materials and parts previously procured by the Supplier.

23.3. The Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for Goods specially manufactured for the Procuring Entity which cannot be solved in open market, its shall be allowed to recover partially from this contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the Procuring Entity before recovery may be made.

## 24. Termination for Unlawful Acts

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

(a) Corrupt, fraudulent, and coercive practices;

(b) Drawing up or using forged documents;

(c) Using adulterated materials, means or methods, or engaging in Production contrary to rules of Science or the trade; and

(d) Any other act analogous to the foregoing.

## 25. Procedures for Termination of Contracts

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

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the implementing unit shall within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a verified report, with all relevant evidence attached;
- (b) Upon recommendation by the implementing unit, the head of the Procuring Entity shall terminate this contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
  - (b.1) that this Contract is being terminated for any of the ground(s) aforementioned and a statement of the acts that constitutes the grounds constituting the same;
  - (b.2) the extent of termination whether in whole or in part;
  - (b.3) an instruction to the Supplier to show cause as to why this contract should not be terminated; and
  - (b.4) special instruction of the Procuring Entity, if any
- (c) The Notice to Terminate shall be accompanied by a copy of the verified report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of termination, the Supplier shall submit to the head of the Procuring Entity a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of seven (7) day period, either by in action or by default, the head of the Procuring Entity shall issue an order terminating this Contract;
- (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper to withdraw the notice to terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the receipt of the notice.
- (f) Within a non-extendible period of ten (10) calendar days receipt of the verified position paper, the head of the Procuring Entity shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision. Unless otherwise provided, this Contract is deemed terminated from receipt of the



Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;

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

## 26. Assignment of Rights

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

## 27. Special Conditions

### Non-Disclosure Agreement

The supplier shall execute a non-disclosure agreement in favor of the Philippine Government wherein the supplier shall warrant that all information and communication, whether oral or written, secured in the course of negotiation with the Department of National Defense/Armed Forces of the Philippines (DND/AFP) shall not divulged or disclosed to any other person or entity, without the express written consent of the DND/AFP. It includes non-disclosure of, but not limited, to the following: a) Terms of Reference, b) Technical Specification of the Project, c) Annual Procurement Plan and related Project Procurement Management Plan and d) Proposals.

## 28. Contract Amendment

Subject to applicable laws, no variation in or modification of the Terms of this Contract shall be made except by written amendment signed by the parties and approved by the Secretary of National Defense.

## 29 Application

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