

Republic of the Philippines
PHILIPPINE PORTS AUTHORITY
PPA Building, Bonifacio Drive, South Harbor,
Port Area, Manila, Philippines

CONTRACT
FOR THE PROCUREMENT OF SIX (6) UNITS OF VEHICLE X-RAY
MACHINES FOR RORO PORTS

KNOW ALL MEN BY THESE PRESENTS:

APR 02 2018

This Contract made and entered into this _____ day of _____ 2018, in Manila Philippines,
by and between:

PHILIPPINE PORTS AUTHORITY, a government instrumentality created under Presidential Decree No. 857, as amended, with principal office at PPA Building, Bonifacio Drive, South Harbor, Port Area, Manila, represented herein by its General Manager, **JAY DANIEL R. SANTIAGO**, and hereinafter referred to as "**PPA**";

- and -

S & S ENTERPRISES, INCORPORATED (TIN No. 006-935-050-000) /**TEC SEN CO., LTD.** (TIN No. 710-387-934-000) Joint Venture, private corporations duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at 1953 Severino Reyes St., Sta. Cruz, Manila, represented in this act by its duly Authorized Representative, **FRANCIS GEORGE DAVID**, as evidenced by the Joint Venture Agreement dated 18 January 2018, copy of which is hereto attached as Annex "A," and made an integral part of this Contract, and hereinafter referred to as "**SUPPLIER**".

WITNESSETH:

WHEREAS, in accordance with Republic Act No. 9184 and its 2016 Revised Implementing Rules and Regulations, the PPA Head Office Bids and Awards Committee for the Procurement of Goods and Consultancy Services (BAC-PGCS), advertised in a newspaper of general nationwide circulation and posted on PhilGEPS and PPA Website as well as on its bulletin board an Invitation to Bid for the Procurement of Six (6) Units of Vehicle X-Ray Machines for RoRo Ports;

WHEREAS, in response to the said advertisement, three (3) bidders submitted their bid for the foregoing project;

WHEREAS, after the opening of bids on 07 February 2018 and the conduct of bid evaluation and post-qualification, the bid submitted by the SUPPLIER was declared as the Single Calculated and Responsive Bid in the amount of **SEVEN HUNDRED FORTY EIGHT MILLION FOUR HUNDRED EIGHTY EIGHT THOUSAND PESOS (P 748,488,000.00)**, Philippine Currency;

WHEREAS, pursuant to BAC-PGCS Resolution No. 012-2018 Series of 2018, award of contract was made to the SUPPLIER in a Notice of Award dated 28 February 2018, in the amount of **SEVEN HUNDRED FORTY EIGHT MILLION FOUR HUNDRED EIGHTY EIGHT THOUSAND PESOS (P 748,488,000.00)**, after submission of the required documents within the prescribed period and compliance to the conditions stipulated in the IRR;

WHEREAS, the SUPPLIER duly accepted the award by signing its Conforme on the said Notice of Award;

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants, stipulations and agreements herein contained, the PPA and the SUPPLIER have agreed, as they do hereby agree, and contract as follows:

S&S ENTERPRISES, INC./TEC SEN CO., LTD./JOINT VENTURE
BY: FRANCIS GEORGE DAVID
Authorized Representative
Witness: ROBERT T. DEL FIERRO
Vice-President for Special Project

PHILIPPINE PORTS AUTHORITY
BY: JAY DANIEL R. SANTIAGO
General Manager
Witness: ADRIAN PERDIKAND S. SUGAY
Chairperson, BAC-PGCS

**ARTICLE I
CONTRACT DOCUMENTS**

1.01 The following documents shall constitute integral parts of this Contract, as fully as if the contents of the said documents are reproduced, incorporated and set forth herein, and shall govern and control in full force and effect the rights and obligations of the Parties, except as otherwise modified by the terms and conditions of this Contract, or by mutual agreement in writing of both parties, to wit;

- a. Bid Documents issued by PPA;
- b. Addenda and/or Supplemental/Bid Bulletins, if any
- c. SUPPLIER's Bid Proposal including all the documents/statements contained therein;
- d. Performance Security
- e. Notice of Award
- f. Other Contract Documents that may be required by existing law and/or the PPA such as:

- 1. Abstract of Bids;
- 2. Approved BAC Resolution Recommending Award of the Contract; and
- 3. Certificate of Availability of Funds (CAF)

1.02 All Contract documents are and shall remain as the property of PPA.

1.03 The words and expressions in this Contract shall have the same meanings respectively assigned to them in the Contract Documents referred to above.

**ARTICLE II
SUPPLIER'S UNDERTAKING SCOPE OF WORK**

2.01 The SUPPLIER, in consideration of the payment to be made by PPA as stated in the Contract Documents and this Contract, hereby covenants to execute and complete the supply, delivery and installation of Six (6) units of vehicle x-ray machines for designated Roll-on/Roll-off (RoRo) Ports, in conformity in all respects with the provisions of this Contract and the Contract Documents.


GENERAL REQUIREMENTS

A. Dimensions

Inspection Tunnel	At least: Height - 14 feet Width - 10 feet
Height from ground level to lowest point	At least 0.14 meters from ground level


B. Capabilities

A Drive-Thru Technology	
1	The units shall be able to scan and process information while the vehicle passes through the inspection portal, without the need for the passengers to alight from the vehicle/s.
2	Each unit shall be able to scan the contents of each vehicle in a free-flow operation mode with a speed of 5-15 km/hr.
3	Each unit must be able to scan at least 120 vehicles per hour.
4	There should be automatic counting and saving of information as to number of passengers.
5	The system must integrate alarm sounds during questionable events.
B Under-Vehicle Video Surveillance	
1	The x-ray scanner must provide a video surveillance system for under-vehicle inspection.
C Automatic Face Detection and Analysis	
1	The system must have a real-time multi-face recognition technology that can screen at least five (5) faces simultaneously.
2	Live Face Service Monitoring
3	Real-time recordings will be compared against face thumbnails and person database.
4	The analysis result should be displayed on the screen immediately.
5	Able to check detected face and matched face information from up to 6 real-time CCTVs.
6	Provide alarm feature for easy confirmation
7	Straightforward user interface
8	Convenient drag & drop
9	Tree view device and location lists for increased convenience

S&S ENTERPRISES, INC./TEC SEN CO., LTD./JOINT VENTURE
BY: 

Witness:
ROBERT T. DEL FIERRO
Vice-President for Special Project

FRANCIS GEORGE DAVID
Authorized Representative

PHILIPPINE PORTS AUTHORITY
BY: 

Witness:
ADRIAN BERNARD S. SUGAY
Chairperson, HO-BAC-PCCS

JAY DANIEL R. SANTIAGO
General Manager

S&S ENTERPRISES, INC./TEC SEN CO., LTD/JOINT VENTURE
BY :

PHILIPPINE PORTS AUTHORITY
BY :

Witness :

Witness :

ROBERT T. DEL FIERRO
Vice-President for Special Project

FRANCIS GEORGE DAVID
Authorized Representative

ADRIAN FERDINAND S. SUGAY
Chairperson, HQ-BAC-PGCS

JAY DANIEL R. SANTAYAGO
General Manager

10	Top match information provided based on set threshold
11	Provide detailed information of top two matched persons
12	Fully integrated driver identification camera
13	Weather proofing
14	Remote operation
15	Operator cabin
16	LED traffic lights
17	Speed sensor
18	Two (2) Infrared access limiting barriers
19	Additional interlocks and emergency stop buttons
20	UPS for scanning system
21	Integrated Automatic Face Detection/Analysis System
22	Integrated Automatic Plate Number Detection and
23	Analysis/Registration System
D Automatic Plate Number Detection and Analysis	
1	Should be able to recognize various types of vehicle plates.
2	Automatically save and update vehicle and driver information.
3	The detected vehicle plate number will be automatically compared with those already stored in the database and the result/analysis should be immediately displayed on the screen.
4	If the plate number is not already in the database, it should be automatically stored in the database with driver's facial image.
5	In the event of a different driver using the same vehicle, the facial image of the driver should be stored under the same registered plate number/vehicle.
6	Automatic calculation of the number of visits per vehicle.
E Database	
1	A database should be included that can easily be accessed using event-based history and previous data saved.
F Operating and Management Computer System	
1	The data storage capacity must be at least one (1) month for x-ray scanner data, face detection and plate number detection data.
2	The system must have at least three (3) monitors with appropriate full HD LED display Monitor to display different purposed images.
3	The Computer system must support real time operating computing capability, network communication and sound system.
G System Integrated Operating and Management Service Software	
1	Shall include a main headquarters (HQ) server and site server.
2	Shall include protection from system hacking. All data must be encrypted.
3	The client software must independently operate to control and manage the integrated x-ray system and storage data.
4	The software shall be able to send emergency signal/s to the main HQ server in case of emergency events.
5	The server software shall be able to access the site software real time.
6	The server software shall be able to see the site image real time.
7	The server software should be able to access the site software based on scheduling to a Client Storage Data and store the received data in to storage medium in the server automatically.
8	Shall have protection from hacking.
9	The integrated software shall be customizable for the PPA.
10	Include software user's and operating manual
11	Include software service diagram
H Power Supply Requirements	
1	Includes Uninterrupted Power Supply (UPS) for the computer system.
2	The UPS shall be capable of supplying power to the computer system and data storage for at least 15 minutes if the power supply is suddenly interrupted.
3	Sub Power Supply System for X-Ray Operation- Diesel Generator: When the main power source stopped power supply to the X-ray system, the power must be supplied by the diesel power generator, which is an auxiliary power supply system. The switching time of ATS shall be below 5 seconds.
I Radiation Safety	
1	Must have low dose radiation, safe for human exposure.
2	Must comply with radiation safety standard, less than 0.15µSv/scan.
3	Emergency shutdown button shall be properly installed at the machine and inside the workstation for the operator's easy access.

XRAY SCANNER

Modular L- shaped dual energy linear detector	
Automatic color-coding: At least 3 colors to distinguish between organic/non-organic/metallic items.	
Fully integrated driver identification camera	
Weather proofing	
Remote operation	
Operator cabin	
LED traffic lights	
Speed sensor	
Two (2) Infrared access limiting barriers	
Additional interlocks and emergency stop buttons	
UPS for scanning system	
Integrated Automatic Face Detection/Analysis System	
Integrated Automatic Plate Number Detection and Analysis/Registration System	
Anode Voltage	200kV
Power Supply Voltage	230V ± 23V, 50/60 Hz
Maximum Power Consumption	Up to 2kVA
Ambient Operating Temperature Range:	From -10°C to + 50°C
Relative Operating Air Humidity Range:	From 45% up to 90% @ t=+ 25°C
Ambient Transportation Temperature Range:	From -20°C to + 40°C
Relative Transportation Storage Air Humidity Range:	Max 90% at temperature + 25°C
Radiation Safety	<0.15 µSv/scan at 7 km/h vehicle speed

IMAGE QUALITY

Penetration (steel)	Up to 25mm
Contrast Sensitivity	2%
Copper Wire Detection Capability	Ø 0.80mm (20 AWG)
Spatial Resolution	2.0 mm
Detector x-ray sensitive element pixel size	2.5mm
No. of pixels	2688 each energy

2.02 The SUPPLIER agrees to deliver and install the equipment referred to in Section 2.01 and have the same accepted by PPA within the timeline indicated in the Terms of Reference and Bid Documents, from the receipt of the Notice to Proceed at its sole cost and expense, and to fully furnish all materials, tools, labor supplies, equipment and services necessary for the implementation of this Contract in accordance with the Contract Documents forming integral parts of this contract. This contract shall include the set-up of the operation and control area, provisions for network connection data and application services uninterrupted power through reserve source (s), and training for the operation and maintenance of the automated drive through portal for security inspection.

2.03 The SUPPLIER shall provide three (3) years warranty period from the date of receipt of the equipment by PPA. All costs for any repairs and/or replacement of parts of the equipment shall be for the account of the SUPPLIER.

2.04. The SUPPLIER shall warrant the availability of spare parts for a period of at least five (5) years from the purchase of the subject units.

2.05 The SUPPLIER shall have a minimum of three (3) service engineers or technicians, certified by the manufacturer, who can perform preventive and corrective maintenance on-site at any requested time.

2.06 The SUPPLIER shall provide for technical support, either through phone-in hotline or on-site visits, if necessary. Phone-in concerns to the SUPPLIER'S technical support group shall be resolved within thirty (36) hours from the call. Any request for an on-site inspection/work on the equipment shall be done within 24-72 hours from the time of such request.

2.07 The SUPPLIER shall warrant the availability of a service unit in case of repairs, or in the event of a breakdown of any of the purchased equipment. The temporary unit shall be deployed to the concerned PMO within 48 hours from PPA's request. Any replacement shall be of the same or superior specification and acceptable to the PPA.

S&S ENTERPRISES, INC./TEC SEN CO., LTD/JOINT VENTURE
BY :

Witness

ROBERT I. DEL FIERRO
Vice-President for Special Project

FRANCIS GEORGE DAVID
Authorized Representative

Witness :

ADRIAN FERDINAND S. SUGAY
Chairperson, HQ-BAC-PPCS

PHILIPPINE PORTS AUTHORITY
BY :

JAY DANIEL R. SANTAGO
General Manager

2.08 The SUPPLIER shall conduct training/orientation for the use and maintenance of the equipment for the concerned PPA personnel. Training shall be done within one (1) month from installation of all units.

2.09 The SUPPLIER shall include one set of equipment manual for each unit of equipment delivered.

2.10 Relevant to Section 51.3 of the General Conditions of the Contract (GCC), the PPA designated representative shall be entitled to attend the tests and/or inspections provided that PPA shall bear the costs and expenses incurred in connection with the inspection.

2.11 The SUPPLIER recognizes the position of trust and confidence reposed in it under this Contract, and agrees to perform its obligations hereunder in the most efficient and competent manner, use its skill and good judgment, always set in good faith, and carry out the execution of this Contract in the most sound, expeditious and economical manner consistent with the interest of the PPA.

**ARTICLE III
CONSIDERATION**

3.01 For and in consideration of the full, satisfactory and faithful performance by the CONTRACTOR of all its undertakings defined in and provided for under this Contract and Contract Documents, PPA agrees to pay the SUPPLIER the total amount not exceeding **SEVEN HUNDRED FORTY EIGHT MILLION FOUR HUNDRED EIGHTY EIGHT THOUSAND PESOS (P 748,488,000.00)**. Philippine Currency, inclusive of the twelve percent (12%) value added tax (VAT).

3.02 Payment shall be made only upon certification by the Head of Procuring Entity that the Goods have been delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Provided, further, that payment shall be in accordance with existing accounting and auditing rules and regulations.

3.03 The SUPPLIER's request 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 Bid Document and upon fulfillment of other obligations stipulated in this Contract.

3.04 It is agreed and understood that all prices specified in this Contract shall be considered fixed prices and therefore not subject to price escalation during the contract implementation, except under extraordinary circumstances and upon prior approval of the Government Procurement Policy Board (GPPB), provided that any request for price escalation under extraordinary circumstances shall be submitted by PPA to the National Economic and Development Authority (NEDA). Extraordinary circumstances shall refer to events that may be determined by the NEDA in accordance with the Civil Code of the Philippines and upon recommendation of the PPA.

3.05 Any payment due and payable to the SUPPLIER may be set off against liquidated damages payable to the PPA by the SUPPLIER under this Contract.

3.06 All payments shall be subject to existing government accounting and auditing rules and regulations.

3.07 An advance payment not to exceed fifteen percent (15%) of the contract amount shall be allowed and paid to the SUPPLIER within sixty (60) calendar days from signing of the contract, upon submission by the SUPPLIER of an irrevocable letter of credit or bank guarantee issued by a Universal or Commercial Bank. The irrevocable letter of credit or bank guarantee must be for an equivalent amount, shall remain valid until the goods are delivered, and accompanied by a claim for advance payment.

**ARTICLE IV
PERFORMANCE SECURITY**

4.01 To guarantee the faithful performance of the SUPPLIER of its obligations under this Contract, it shall post a performance security prior to the signing of the contract.

The performance security shall be in an amount equal to a percentage of the total contract price in accordance with the following schedule

S&S ENTERPRISES, INC./TEC SEN CO., LTD/JOINT VENTURE

Witness:

ROBERT T. DEL FIERRO
Vice-President for Special Project

FRANCIS GEORGE DAVID
Authorized Representative

Witness:

ADRIAN FERDINAND S. SUGAY
Chairperson, HQ-BAC-PGCS

PHILIPPINE PORTS AUTHORITY

BY:

JAY DANIEL R. SANTIAGO
General Manager

S&S ENTERPRISES, INC./TEC SEN CO., LTD/JOINT VENTURE
 BY: 
 FRANCIS GEORGE DAVID
 Authorized Representative

Form of Performance Security	Amount of Performance Security (Not less than the required percentage of the Total Contract Price)
a. Cash, cashier's/manager's check issued by a Universal or Commercial Bank	Five percent (5%)
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	Five percent (5%)
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.	Thirty percent (30%)

4.02 This performance security shall be denominated in Philippine Pesos and posted in favor of PPA which shall be forfeited in the event it is established that the SUPPLIER is in default in any of its obligations under this Contract.

4.03 In the execution of the performance security, the following conditions shall be complied with:

- a. It shall be executed in accordance with the form as prescribed in Section 4.01 hereof.
- b. It shall be at least co-terminus with the final completion of the project.

4.04 Subject to the conditions of the Contract, the performance security may be released by PPA after the issuance of the Certificate of Completion and Acceptance of the project, provided that there are no claims for labor and materials filed against the SUPPLIER or the surety company.

4.05 Should any surety bond for the performance of this Contract become unacceptable to the PPA, the SUPPLIER shall promptly furnish such replacement security as may be required from time to time up to the sum equal to the amount of the original surety.

**ARTICLE V
 COMPLETION TIME: LIQUIDATED DAMAGES**

5.01 The SUPPLIER agrees and obligates itself to perform and complete all works provided in this Contract within 120 to 240 days, indicated in the Schedule of Requirements in the Bid Documents, from the receipt of the Notice to Proceed, which shall be issued within seven (7) calendar days from the date of approval of this contract.

5.02 Time is of the essence of this Contract. Should the SUPPLIER refuses or fails to satisfactorily complete the work within the specified contract time, plus any time extension duly granted and is hereby in default under the contract, the SUPPLIER shall pay the PPA for liquidated damages in the amount equal to one-tenth (1/10) of one percent (1%) of the total contract price for every day of delay.


5.03 It is understood that the damages herein provided are fixed and agreed liquidated damages and to be entitled to such damages, PPA need not prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due the SUPPLIER under the contract and/or collect such liquidated damages from the retention money or any securities or warranty posted by the SUPPLIER, whichever is convenient to PPA.

5.04 In no case, however, shall the total sum of liquidated damages exceed ten percent (10%) of the total contract price, in which event the contract shall automatically be terminated by PPA and the erring SUPPLIER's performance security shall be forfeited. The amount of the forfeited performance security shall be aside from the amount of the liquidated damages that the SUPPLIER shall pay PPA under Section 5.02 hereof without prejudice to the imposition of appropriate sanctions.

PHILIPPINE PORTS AUTHORITY
 BY: 
 JAY DANIEL R. SANTIAGO
 General Manager

Witness:

 ADRIAN FERDINAND S. SUGAY
 Chairperson, MO-BAC-PGCC

Witness:

 ROBERT T. DEL FIERRO
 Vice-President for Special Project

ARTICLE VI
EXTENSION OF CONTRACT TIME

6.01 If at anytime during the performance of the Contract the SUPPLIER should encounter conditions impeding timely performance of the works, the SUPPLIER shall promptly notify PPA 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, PPA shall evaluate the situation and if it is determined that the cause thereof is due to force majeure or fortuitous events, PPA may grant an extension of contract time to complete the works/services, in which case the extension shall be ratified by the parties by amendment of contract.

ARTICLE VII
ENTIRE CONTRACT

7.01 Provisions to the contrary notwithstanding, it is agreed that this is an entire contract for one whole complete work and that partial payments on account by the PPA or the use of parts of the work or equivalent shall not constitute an acceptance of any part of the work before its entire completion and final acceptance in writing by the PPA.

ARTICLE VIII
SUPPLIER'S LIABILITY

8.01 The Parties, likewise, hereby agree that the employees of the SUPPLIER are not employees of the PPA; hence, the PPA shall not in any way be liable or responsible for any personal injury or damages, including death sustained or caused by any of the employees of the SUPPLIER and/or his sub-contractor or agent or supplier whether or not occurring during the performance of their duties. The SUPPLIER agrees and binds itself to indemnify the PPA for whatever injuries or damages caused or occasioned or contributed to by the failure, negligence or conduct of the SUPPLIER and/or its employees, sub-contractors, agent and supplier or consultants arising out of or in connection with or on the occasion of the performance of this Agreement. The SUPPLIER shall, at all times, stand solely liable and/or responsible for the enforcement of, and compliance with all existing laws, rules and regulations and binds itself to save and hold the PPA free and harmless from any and all liability in respect thereof and/or arising therefrom and/or by reason of this Contract and its implementation.

ARTICLE IX
RESPONSIBILITY OF THE SUPPLIER

9.01 The SUPPLIER shall assume full responsibility of its obligations under this contract until its final acceptance by the PPA and shall be held responsible for any damage or losses to the equipment, until such final acceptance.

9.02 The SUPPLIER shall be fully responsible for the safety, protection, security and convenience of its personnel, third parties and the public at large, as well as the works, equipment, installation and the like to be affected in the implementation of this Contract.

9.03 Any actionable act or acts of the SUPPLIER's officials, employees, agents or assignee arising out of or in the course of this Contract, shall be understood and binding as an act of the SUPPLIER.

ARTICLE X
INSPECTION AND TESTS

10.01 PPA or its representatives shall have the right to inspect and/or test the Equipment to confirm their conformity to the Contract Specifications at no extra cost to PPA.

10.02 PPA may reject the Equipment 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 Equipment or parts thereof or make alterations necessary to meet the specifications and shall repeat the test and/or inspection, at no cost to PPA, upon giving notice.

10.03 The SUPPLIER agrees that neither the execution of a test and/or inspection of the Equipment any part thereof, nor the attendance by PPA or its representatives, shall release the SUPPLIER from any warranties or other obligations under this Contract.

S&S ENTERPRISES, INC./TEC SEN CO., LTD/JOINT VENTURE
BY :

FRANCIS GEORGE DAVID
Authorized Representative

ADRIAN FERDINAND S. SUGAY
Chairperson, HO-BAC-PGCC

JAY DANIEL R. SANTIAGO
General Manager

PHILIPPINE PORTS AUTHORITY
BY :

Witness:
ROBERT T. DEL FIERRO
Vice-President for Special Project

Witness:
[Signature]

ARTICLE XI
NON-ASSIGNMENT AND NO SUBCONTRACT

11.01 The SUPPLIER shall not, without the written approval of the PPA, assign its rights or obligations under this Contract, in whole or in part. Any unapproved assignment, transfer, pledge, sub-contract or any other disposition, shall be sufficient ground for PPA to terminate or cancel this Contract motu proprio without need of judicial action pursuant to Section 16.03 hereof. Should PPA give its written approval for the SUPPLIER to assign any part of this contract, such consent shall not relieve the SUPPLIER of its responsibilities under this Contract. The SUPPLIER shall ensure that the terms and conditions of any such sub-contract shall comply and conform with the terms and conditions of this Contract. The SUPPLIER shall be responsible for the observance by any such sub-contractor of the terms and conditions of this Contract.

ARTICLE XII
TAXES, LICENSES, PERMITS AND FEES

12.01 The SUPPLIER's tax, licenses, permits, fees and all other taxes, fees or charges of whatever form, kind or nature due or which may be due to the national and/or local government units and/or its instrumentalities/agencies on account of the performance and completion of the work stipulated herein, fees for the testing of materials and samples and fees for the testing and inspection of the installation by all agencies having jurisdiction and all necessary and incidental expenses relative thereto including preparation of documents and notarial fees shall be paid for and obtained by the SUPPLIER on its own account.

ARTICLE XIII
AGREEMENT MODIFICATION

13.01 No modification, alteration or waiver of any provision herein contained shall be binding on the Parties hereto unless evidenced by a written amendment signed by the parties hereof.

ARTICLE XIV
INDIVISIBILITY OF OBLIGATION

14.01 It is the intent of the Contract that all the documents, annexes and addenda forming part hereof, shall be read together and that each and every provision or stipulation hereof be give full force, effect and applicability. However, in the event that one or more provisions or stipulations herein be declared null and void by the courts, or otherwise rendered ineffective, the remaining provisions and stipulations shall not be affected thereby.

ARTICLE XV
ARBITRATION/REMEDY AND RELIEF

15.01 Should there be any dispute or disagreement of any kind whatsoever which arise between the parties in connection with the implementation of this contract, the parties hereto shall make every effort to resolve amicably such dispute or disagreement by mutual consultation. In the event that such dispute or disagreement is not resolved to the parties' mutual satisfaction, the matter shall be submitted to the arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law" and Republic Act No. 9285 otherwise known as the "Alternative Dispute Resolution Act 2004, without prejudice to the right of PPA to immediately rescind or terminate this contract.

15.02 Should PPA be constrained to resort to court action to enforce or safeguard its rights and interests under this Contract, the SUPPLIER shall be liable to the PPA for attorney's fees in an amount equivalent to Twenty Percent (20%) of the total sum claimed in the complaint, exclusive of other damages and the expenses of litigation. Venue of all court actions in connection with or arising out of this Contract shall be laid exclusively in the proper court of the City of Manila.

15.03 It is clearly understood that in case a dispute or disagreement arises between the PPA and the SUPPLIER regarding the manner by which the latter is performing works, the SUPPLIER shall follow the instruction of the PPA relative thereto, otherwise, it shall have no right to ask for arbitration or go to court for relief.

S&S ENTERPRISES, INC./TEC SEN CO., LTD./JOINT VENTURE
BY :

Witness :

ROBERT T. DEL FIERRO
Vice-President for Special Project

FRANCIS GEORGE DAVID
Authorized Representative

PHILIPPINE PORTS AUTHORITY
BY :

Witness :

ADRIAN FERDINAND S. SUGAY
Chairperson, HO-BAC-PCCS

JAY DANIEL R. SANTIAGO
General Manager

ARTICLE XVI
OTHER COVENANTS

16.01 It is expressly agreed and understood that in case of irreconcilable conflict between the provisions of this Contract and the provisions of any of the contract documents, the former shall be controlling.

16.02 It should also be clearly understood that any payment or failure of the PPA to demand compliance with any of the terms and conditions of this Contract or any act of liberality on the part of the PPA shall not be construed or considered as a waiver on the part of the PPA for the enforcement of this Contract, nor shall it relieve the SUPPLIER of any of its obligations provided thereunder.

16.03 Notwithstanding any provision to the contrary, the PPA has the right to terminate, cancel and/or rescind this Contract motu proprio, in case of breach thereof by the SUPPLIER or upon failure of the SUPPLIER to comply strictly with the terms of the contract, without need of judicial action by giving at least TEN (10) days written Notice to that effect to the SUPPLIER, which Notice shall be final and binding on all the parties. There is a default when any of the following conditions affect its implementation:

- (a) Outside of force majeure, the SUPPLIER fails to deliver or perform any or all of the obligations within the period specified in the contract, or within any extension thereof granted by PPA pursuant to a request made by the SUPPLIER prior to the delay, and such failure amounts to at least ten (10%) for the contract price;
- (b) As a result of force majeure, the SUPPLIER is unable to deliver or perform any or all of its obligations, 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 PPA stating that force majeure has already ceased; or
- (c) The SUPPLIER fails to perform any other obligations under this Contract.

16.04 PPA has the right to require the SUPPLIER to provide the required maintenance services as well as provide the necessary tools, materials, supplies, equipment, facilities, and to increase the number or workers assigned to the work when exigencies of the service so require. Should the SUPPLIER fail, refuse or neglect to comply with the same, PPA may award the same to another SUPPLIER through negotiated contract in accordance with the pertinent provisions of R.A. No. 9184 and its 2016 Revised Implementing Rules and Regulations. Any increase in cost which the PPA may incur as a result thereof shall be borne by and charged to the SUPPLIER.

16.05 The SUPPLIER shall provide and do everything necessary to perform its obligations under this Contract according to the true intent and meaning of all the contract documents taken together, whether the same may or may not be shown or described particularly provided that the same can be inferred therefrom. Should the SUPPLIER find discrepancy in the services to be provided according to the specifications in this Contract, it shall immediately refer the same to the PPA, whose decision shall be final.

16.06 The SUPPLIER agrees and binds itself to hold and save PPA free and harmless from any damage, claims and rights of action by third parties arising out of or by reason of this Contract and all injuries that may be suffered by PPA due to the failure, negligence, delay or conduct on the part of the SUPPLIER and/or its employees in the performance of their obligations under this Contract.

16.07 No payment of the contract shall be made to the SUPPLIER without the Certificate of Completion and Final Acceptance from the PPA.

16.08 Notwithstanding any extra work, change of work orders made, if any, by the PPA, it is agreed that the same shall be completed within the period herein fixed and provided.

16.09 The SUPPLIER shall hold the PPA free and harmless from whatever suit and hereby binds and obligates itself to indemnify the PPA for any and all liabilities, losses, damages, judgement, awards, fines, penalties and all expenses, legal or otherwise, of whatever kind and

S&S ENTERPRISES, INC./TEC SEN CO., LTD./JOINT VENTURE
BY :

Witness :

ROBERT T. DEL PIERRO
Vice-President for Special Project

FRANCIS GEORGE DAVID
Authorized Representative

PHILIPPINE PORTS AUTHORITY
BY :

Witness :

ADRIAN FERDINAND S. SUGAY
Chairperson - HO-BAC-PGCS

JAY DANIEL R. SANTIAGO
General Manager

nature, arising from and by reason of this Contract, due to the fault, negligence, act, omission, delay, conduct, breach of trust or non-observance or violation of this Contract or any stipulation and warranty by the SUPPLIER and/or any of its employees, agents, representatives or sub-contractors.

**ARTICLE XVII
SPECIAL REPRESENTATION**

17.01 The SUPPLIER hereby represents that all documents it submitted which form integral parts hereof are authentic and duly executed with all the required formalities for the same, and that the facts and/or date contained therein are true and correct. A breach of this representation including all misrepresentation in the documents or suppression of material facts therein, which if known, could have disqualified the SUPPLIER such that this contract would not have been made and entered into, gives the PPA the immediate right or recourse to motu proprio rescind, abrogate or otherwise terminate the contract without need of judicial action, in accordance with Section 16.03 hereof.

The SUPPLIER hereby warrants that it has not given nor promise to give any money, gift or any material favor/consideration to any official or employee of the PPA to secure this Contract; and that the SUPPLIER and all its officers and directors is not related to the General Manager, the members of the Bids and Awards Committee (BAC), the Technical Working Group (TWG), the BAC Secretariat and the end-user by consanguinity or affinity up to the third civil degree; that any violation of this warranty shall be sufficient ground for the PPA to revoke or cancel this Contract extrajudicially or without need of judicial intervention.

**ARTICLE XIX
EFFECTIVITY**

This Contract shall become effective after the same shall have been signed by the Parties hereof.

IN WITNESS WHEREOF, the parties have hereunto signed this Contract on the date and place first hereinabove written.

PHILIPPINE PORTS AUTHORITY

TIN No. 000-352-232-000
By:


JAY DANIEL R. SANTIAGO
General Manager

S&S ENTERPRISES, INC. (TIN No. 006-935-050-000/**TEC SEN CO., LTD./JV**)
(TIN No. 710-387-934-000)
By:


FRANCIS GEORGE DAVID
Authorized Representative

WITNESSES:


ADRIAN FERDINAND S. SUGAY
Chairperson, HO-BAC-PGCS


ROBERT T. DEL FIERRO
Vice-President for Special Projects

ACKNOWLEDGMENT

S&S ENTERPRISES, INC./TEC SEN CO., LTD/JOINT VENTURE
BY: *[Signature]*
Witness: **ROBERT T. DEL FIERRO**
Vice-President for Special Project

REPUBLIC OF THE PHILIPPINES)
CITY OF **MANILA**) S.S.

BEFORE ME, a Notary Public for and in the City of MANILA
Philippines, this APR 02 2018 day of 2018, personally appeared:

NAME	PROOF OF IDENTITY	DATE	PLACE
Jay Daniel R. Santiago	Passport No. EB8969214		
Francis George David	Passport No. EC0669766		
POSITION	COMPANY	CTC No.	DATE PLACE
General Manager	Phil. Ports Authority	00143578	1-15-18 Manila
Authorized Representative	S&S Enterprises, Inc./Tec Sen Co., LTD/Joint Venture		

Known to me to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their free act and that they are the respective representatives of the legal entities they represent.

The foregoing instrument refers to a Contract for the Procurement of Six (6) Units of Vehicle X-Ray Machines for RoRo Ports consisting of eleven (11) pages including the page on which this acknowledgement is written, signed by the parties and their witnesses on all pages.

WITNESS MY HAND AND NOTARIAL SEAL.

Doc. No. 676
Page No. 11
Book No. 11
Series of 2018.

Witness: *[Signature]*
ADRIAN FERDINAND S. SUGAY
Chairperson, HO-BAC-PGCS

ATTY. JAIME B. JIMENEZ
NOTARY PUBLIC
UNTIL DECEMBER 31, 2018
PTR NO. 402152
I.P.F. NO. 1059408-JAN-5-2010
ROLL NO 55908-4-14-09
MCLE COMPLIANCE NO. V-10-19874

PHILIPPINE PORTS AUTHORITY
BY: *[Signature]*
JAY DANIEL R. SANTIAGO
General Manager