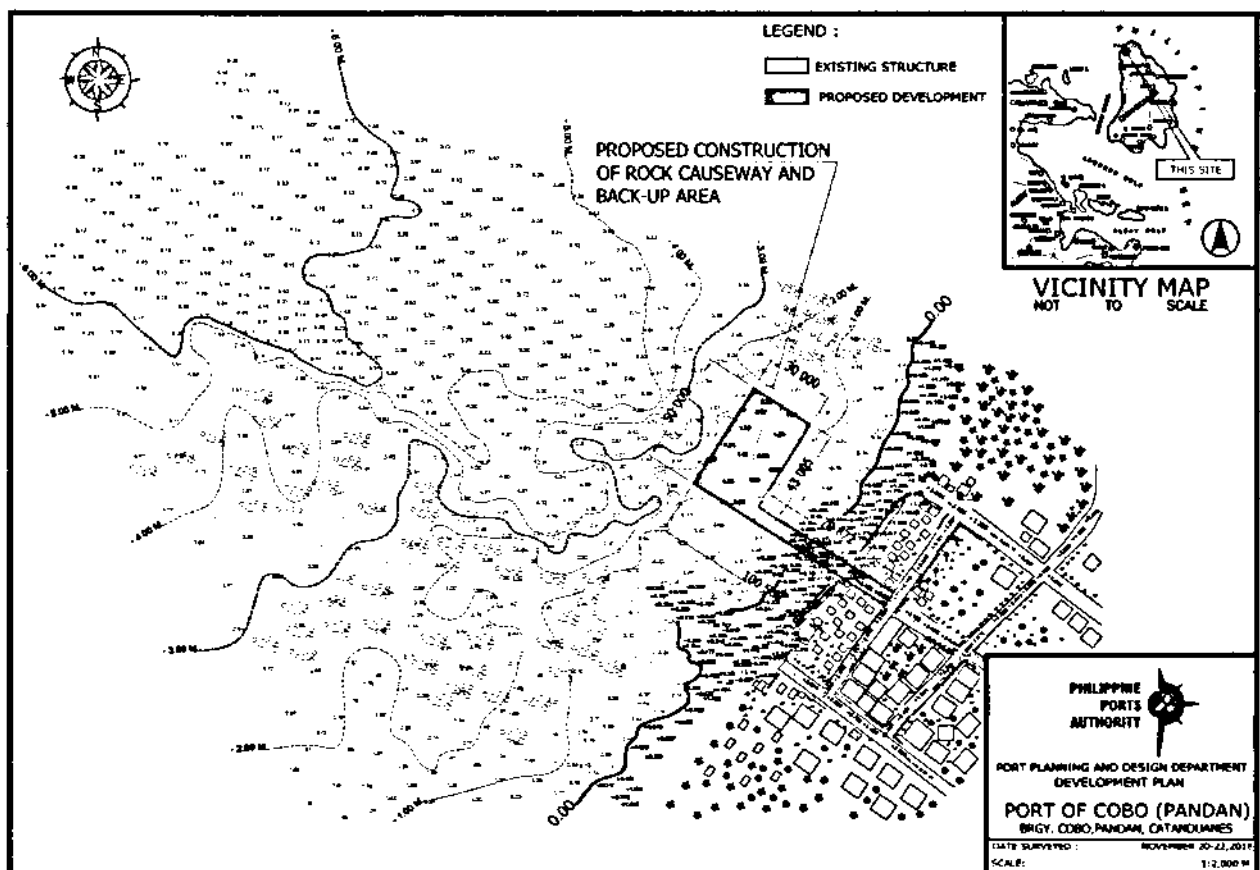


PHILIPPINE  
PORTS  
AUTHORITY



# COBO PORT DEVELOPMENT PROJECT

PORT OF COBO, PANDAN, CATANDUANES



## BID DOCUMENTS

PORT PLANNING AND DESIGN DEPARTMENT  
(PPDD-2019\_05)

# TABLE OF CONTENTS

<b>SECTION I</b>	<b>INVITATION TO BID .....</b>	<b>1-2</b>
<b>SECTION II</b>	<b>INSTRUCTIONS TO BIDDERS .....</b>	<b>ITB 1-25</b>

**GENERAL**

1. Scope of Bid .....	1
2. Source of Funds .....	1
3. Corrupt, Fraudulent, Collusive, and Coercive Practices .....	1
4. Conflict of Interest .....	2
5. Eligible Bidders .....	4
6. Bidder's Responsibilities .....	5
7. Origin of GOODS and Services .....	7
8. Subcontracts .....	7

**CONTENTS OF BIDDING DOCUMENTS**

9. Pre-Bid Conference .....	8
10. Clarification and Amendment of Bidding Documents .....	8

**PREPARATION OF BIDS**

11. Language of Bids .....	9
12. Documents Comprising the Bid: Eligibility and Technical Components .....	9
13. Documents Comprising the Bid: Financial Component .....	11
14. Alternative Bids .....	12
15. Bid Prices .....	12
16. Bid Currencies .....	13
17. Bid Validity .....	13
18. Bid Security .....	13
19. Format and Signing of Bids .....	16
20. Sealing and Marking of Bids .....	16

**SUBMISSION AND OPENING OF BIDS**

21. Deadline for Submission of Bids .....	17
22. Late Bids .....	17
23. Modification and Withdrawal of Bids .....	17
24. Opening and Preliminary Examination of Bids .....	18

**EVALUATION AND COMPARISON OF BIDS**

25. Process to be Confidential .....	19
26. Clarification of Bids .....	20
27. Detailed Evaluation and Comparison of Bids .....	20
28. Post Qualification .....	21
29. Reservation Clause .....	22

**AWARD OF CONTRACT**

30. Contract Award .....	23
31. Signing of the Contract .....	23
32. Performance Security .....	24
33. Notice to Proceed .....	25
34. Protest Mechanism .....	25

<b>SECTION III</b>	<b>BID DATA SHEET .....</b>	<b>BDS 1-4</b>
--------------------	-----------------------------	----------------

<b>SECTION IV</b>	<b>GENERAL CONDITIONS OF CONTRACT .....</b>	<b>GCC 1-27</b>
-------------------	---	-----------------

1. Definitions .....	1
2. Interpretation .....	3

3. Governing Language and Law .....	4
4. Communications .....	4
5. Possession of Site .....	4
6. The Contractor's Obligations .....	4
7. Performance Security .....	5
8. Subcontracting .....	6
9. Liquidated Damages .....	6
10. Site Investigation Reports .....	7
11. The Procuring Entity, Licenses and Permits .....	7
12. Contractor's Risk and Warranty Security .....	7
13. Liability of the Contractor .....	9
14. Procuring Entity's Risk .....	9
15. Insurance .....	9
16. Termination for Default of Contractor .....	11
17. Termination for Default of Procuring Entity .....	11
18. Termination for other Causes .....	12
19. Procedures for Termination of Contracts .....	13
20. Force Majeure, Release from Performance .....	15
21. Resolution of Disputes .....	16
22. Suspension of Loan, Credit, Grant, or Appropriation .....	16
23. Procuring Entity's Representative's Decisions .....	16
24. Approval of Drawings and Temporary Works by the Procuring Entity's Representative .....	17
25. Acceleration and Delays Ordered by the Procuring Entity's Representative .....	17
26. Extension of the Intended Completion Date .....	17
27. Right to Vary .....	17
28. Contractors Right to Claim .....	18
29. Day Works .....	18
30. Early Warning .....	18
31. Program of Work .....	18
32. Management Conferences .....	19
33. Bill of Quantities .....	19
34. Instructions, Inspections and Audits .....	19
35. Identifying Defects .....	20
36. Cost of Repairs .....	20
37. Correction of Defects .....	20
38. Uncorrected Defects .....	20
39. Advance Payment .....	21
40. Progress Payments .....	21
41. Payment Certificates .....	22
42. Retention .....	22
43. Variation Orders .....	23
44. Contract Completion .....	24
45. Suspension of Work .....	24
46. Payment on Termination .....	25
47. Extension of Contract Time .....	25
48. Price Adjustment .....	26
49. Completion .....	26
50. Taking Over .....	27
51. Operating and Maintenance Manuals .....	27
<b>SECTION V</b> SPECIAL CONDITIONS OF CONTRACT .....	<b>SCC 1-3</b>
<b>SECTION VI</b> TECHNICAL SPECIFICATIONS	
Item 1 : Excavation Works	
1. Scope of Work .....	1
2. Execution .....	2
Item 2 : Rock Works	
1. Scope of Work .....	4
2. Material Requirements .....	4
3. Execution .....	4

Item 3 :	Reclamation and Fill	
1.	Scope of Work .....	6
2.	Material Requirements .....	6
3.	Execution .....	7
Item 4 :	Geotextile Fabric	
1.	Scope of Work .....	10
2.	Material Requirements .....	10
3.	Execution .....	11
Item 5 :	Aggregate Base Course	
1.	Scope of Work .....	12
2.	Material Requirements .....	12
3.	Execution .....	13
Item 6 :	Portland Cement Concrete Pavement	
1.	Scope of Work .....	15
2.	Material Requirements .....	15
3.	Execution .....	16
Item 7 :	Reinforced Concrete	
1.	Scope of Work .....	21
2.	General Provision .....	21
3.	Material Requirements .....	27
4.	Execution .....	33
Item 8 :	Mooring and Fendering System	
1.	Scope of Work .....	45
2.	Material Requirements .....	45
3.	Execution .....	49
Item 9 :	CHB Security Fence/Wall	
1.	General .....	50
2.	Scope of Works .....	50
3.	Material Requirements .....	50
4.	Execution .....	52
Item 10 :	Electrical Works	
1.	Scope of Work .....	54
2.	General Requirements .....	54
3.	Material Requirements .....	55
4.	Execution .....	56
Item 11 :	Project Billboard	
1.	Specifications .....	58
Item 12 :	Safety Signages and Barricades	
1.	Description .....	61
2.	Specification .....	61
<b>SECTION VII</b>	<b>PROJECT DRAWINGS .....</b>	<b>PD 1</b>
<b>SECTION VIII</b>	<b>BILL OF QUANTITIES AND ATTACHMENTS .....</b>	<b>BQ 1-11</b>
1.	Bill of Quantities .....	1
2.	Annex 1 (Basis of Payments) .....	5
3.	Annex 2 (Facilities to be Provided) .....	9
5.	Annex 3 (Minimum Equipment Requirements) .....	10
6.	Annex 4 (Construction Safety and Health Requirements).....	11
<b>SECTION IX</b>	<b>BIDDING FORMS .....</b>	<b>BF 1-20</b>

1. Bid Form .....	1
2. Statement of all On-going Government and Private Contracts, including contracts awarded but not yet started .....	3
3. Statement of the Bidder's Single Largest Completed Contracts (SLCC) Similar to the Contract to be Bid .....	4
4. Experience Record on Similarly Completed Projects .....	5
5. Financial Data .....	6
6. List of Contractor's Personnel .....	7
7. List of Contractor's Equipment Units .....	8
8. Omnibus Sworn Statement for Sole Proprietorship .....	9
9. Omnibus Sworn Statement for Partnership or Cooperative .....	11
10. Omnibus Sworn Statement for Corporation or Joint Venture .....	13
11. Bid-Securing Declaration .....	15
12. Construction Methodology .....	17
13. Manpower Schedule .....	18
14. Equipment Utilization Schedule .....	19
15. Cash Flow by Quarter and Payment Schedule .....	20

<b>SECTION X</b>	<b>CONTRACT FORM .....</b>	<b>CF 1-13</b>
------------------	----------------------------	----------------

**SECTION I**  
**INVITATION TO BID**



## INVITATION TO BID

### FOR THE COBO PORT DEVELOPMENT PROJECT, PORT OF COBO, PANDAN, CATANDUANES

The Philippine Ports Authority, through the Corporate Budget of the Authority for CY 2019, intends to apply the sum of **₱ 49,974,613.04** being the Approved Budget for the Contract (ABC) to payments under the contract for the **Cobo Port Development Project, Port of Cobo, Pandan, Catanduanes (LFP BCL No. 005-2019)**. Bids received in excess of the ABC shall be automatically rejected at bid opening.

The Philippine Ports Authority now invites bids for **A. Construction of Rock Causeway and Back-up Area**. Completion of the Works is required in **300 calendar days**. Bidders should have completed a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II. Instructions to Bidders.

Bidding will be conducted through open competitive bidding procedures using non-discretionary "pass/fail" criterion as specified in the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act 9184 (RA 9184), otherwise known as the "Government Procurement Reform Act."

Bidding is restricted to Filipino citizens/sole proprietorships, cooperatives, and partnerships or organizations with at least seventy five percent (75%) interest or outstanding capital stock belonging to citizens of the Philippines.

Interested bidders may obtain further information from the Philippine Ports Authority Bids and Awards Committee (BAC) for Engineering Projects and inspect the Bidding Documents at the address given below from 8:00 a.m. to 5:00 p.m., Monday to Friday.

A complete set of Bidding Documents may be acquired by interested Bidders on **20 March 2019** from the address below and upon payment of the applicable fee for the Bidding Documents, pursuant to the latest Guidelines issued by the GPPB, in the amount of **TWENTY FIVE THOUSAND PESOS (₱ 25,000.00)**.

It may also be downloaded free of charge from the website of the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Philippine Ports Authority, provided that bidders shall pay the applicable fee for the Bidding Documents not later than the submission of their bids.



The Philippine Ports Authority's Bids and Awards Committee for Engineering Projects will hold a Pre-Bid Conference on **28 March 2019 at 10:00 a.m.** at the PPA Function Room, 7<sup>th</sup> Floor, PPA Bldg., Bonifacio Drive, South Harbor, Port Area, Manila, which shall be open to all prospective bidders.

Bids must be duly received by the BAC Secretariat at the address below on or before **9:00 a.m. of 15 April 2019**. All bids must be accompanied by a bid security in any of the acceptable forms and in the amount stated in the bidding documents.

Bid opening shall be on **15 April 2019 at 11:00 a.m.** at the 7<sup>th</sup> Floor, PPA Building, A. Bonifacio Drive, South Harbor, Port Area, Manila. Bids will be opened in the presence of the bidder's representatives who choose to attend. Late bids shall not be accepted.

- **Required PCAB Registration: Medium A – Port, Harbor and Offshore Engineering**

The Philippine Ports Authority reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract at any time prior to contract award in accordance with Section 41 of RA 9184 and its IRR, without thereby incurring any liability to the affected bidder or bidders.

For further information, please refer to:

BAC Secretariat, Philippine Ports Authority  
5<sup>th</sup> Floor, PPA Bldg., A. Bonifacio Drive,  
South Harbor, Port Area, Manila

Telephone/Fax No. 527-47-35  
527-47-35 loc. 539

PPA Website: [www.ppa.com.ph](http://www.ppa.com.ph)



**MARK JON S. PALOMAR**  
Chairperson, PPA Head Office Bids and Awards  
Committee for Engineering Projects (HO-BAC-EP)

**SECTION II**

**INSTRUCTIONS TO BIDDERS**

## **A. General**

### **1. Scope of Bid**

- 1.1. The Procuring Entity named in the **BDS**, invites bids for the construction of Works, as described in Section VI. Specifications.
- 1.2. The name, identification, and number of lots specific to this bidding are provided in the **BDS**. The contracting strategy and basis of evaluation of lots is described in ITB Clause 27.
- 1.3. The successful Bidder will be expected to complete the Works by the intended completion date specified in SCC Clause 1.17.

### **2. Source of Funds**

The Procuring Entity has a budget or received funds from the Funding Source named in the **BDS**, and in the amount indicated in the **BDS**. It intends to apply part of the funds received for the Project, as defined in the **BDS**, to cover eligible payments under the Contract for the Works.

### **3. Corrupt, Fraudulent, Collusive, Coercive, and Obstructive Practices**

- 3.1. Unless otherwise specified in the **BDS**, the Procuring Entity, as well as bidders and contractors, shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Funding Source:
  - (a) defines, for purposes of this provision, the terms set forth below as follows:
    - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Procuring Entity, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019;
    - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after Bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition;
    - (iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the

Procuring Entity, designed to establish bid prices at artificial, non-competitive levels; and

(iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

(v) “obstructive practice” is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

(bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.

(b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract; and

(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded Contract funded by the Funding Source if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing or, or in executing, a Contract funded by the Funding Source.

3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under the applicable laws on individuals and organizations deemed to be involved in any of the practices mentioned in ITB Clause 3.1(a).

3.3. Furthermore, the Funding Source and the Procuring Entity reserve the right to inspect and audit records and accounts of a contractor in the bidding for and performance of a contract themselves or through independent auditors as reflected in the GCC Clause 34.

#### **4. Conflict of Interest**

4.1. All Bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in

paragraphs (a) through (c) and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (g) below:

- (a) A Bidder has controlling shareholders in common with another Bidder;
- (b) A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
- (c) A Bidder has the same legal representative as that of another Bidder for purposes of this Bid;
- (d) A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder or influence the decisions of the Procuring Entity regarding this bidding process;
- (e) A Bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid;
- (f) A Bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the bid; or
- (g) A Bidder who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project.

4.2. In accordance with Section 47 of the IRR of RA 9184, all Bidding Documents shall be accompanied by a sworn affidavit of the Bidder that it is not related to the Head of the Procuring Entity (HoPE), members of the Bids and Awards Committee (BAC), members of the Technical Working Group (TWG), members of the BAC Secretariat, the head of the Project Management Office (PMO) or the end-user unit, and the project consultants, by consanguinity or affinity up to the third civil degree. On the part of the Bidder, this Clause shall apply to the following persons:

- (a) If the Bidder is an individual or a sole proprietorship, to the Bidder himself;
- (b) If the Bidder is a partnership, to all its officers and members;
- (c) If the Bidder is a corporation, to all its officers, directors, and controlling stockholders;
- (d) If the Bidder is a cooperative, to all its officers, directors, and controlling shareholders or members; and
- (e) If the Bidder is a joint venture (JV), the provisions of items (a), (b), (c) or (d) of this Clause shall correspondingly apply to each of the members of the said JV, as may be appropriate.

Relationship of the nature described above or failure to comply with this Clause will result in the automatic disqualification of a Bidder.

## 5. Eligible Bidders

- 5.1. Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this Bidding:
- (a) Duly licensed Filipino citizens/sole proprietorships;
  - (b) Partnerships duly organized under the laws of the Philippines and of which at least seventy five percent (75%) of the interest belongs to citizens of the Philippines;
  - (c) Corporations duly organized under the laws of the Philippines, and of which at least seventy five percent (75%) of the outstanding capital stock belongs to citizens of the Philippines;
  - (d) Cooperatives duly organized under the laws of the Philippines.
  - (e) Persons/entities forming themselves into a JV, i.e., a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that, in accordance with Letter of Instructions No. 630, Filipino ownership or interest of the joint venture concerned shall be at least seventy five percent (75%): Provided, further, that joint ventures in which Filipino ownership or interest is less than seventy five percent (75%) may be eligible where the structures to be built require the application of techniques and/or technologies which are not adequately possessed by a person/entity meeting the seventy five percent (75%) Filipino ownership requirement: Provided, finally, that in the latter case, Filipino ownership or interest shall not be less than twenty five percent (25%). For this purpose, Filipino ownership or interest shall be based on the contributions of each of the members of the joint venture as specified in their JVA.
- 5.2. The Procuring Entity may also invite foreign bidders when provided for under any Treaty or International or Executive Agreement as specified in the **BDS**.
- 5.3. Government owned or controlled corporations (GOCCs) may be eligible to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity.
- 5.4. (a) The Bidder must have an experience of having completed a Single Largest Completed Contract (SLCC) that is similar to this Project, equivalent to at least fifty percent (50%) of the ABC adjusted, if necessary, by the Bidder to current prices using the Philippine Statistics Authority (PSA) consumer price index. However, contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB.
- (b) For Foreign-funded Procurement, the Procuring Entity and the foreign government/foreign or international financing institution may agree on another track record requirement, as specified in the **BDS**.

For this purpose, contracts similar to the Project shall be those described in the **BDS**.

- 5.5. The Bidder must submit a computation of its Net Financial Contracting Capacity (NFCC), which must be at least equal to the ABC to be bid, calculated as follows:

NFCC = [(Current assets minus current liabilities) (15)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts, including awarded contracts yet to be started coinciding with the contract for this Project.

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements (AFS) submitted to the BIR.

For purposes of computing the foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their audited financial statements prepared in accordance with international financial reporting standards.

## **6. Bidder's Responsibilities**

- 6.1. The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in Section IX. Bidding Forms as required in ITB Clause 12.1(b)(iii).
- 6.2. The Bidder is responsible for the following:
- (a) Having taken steps to carefully examine all of the Bidding Documents;
  - (b) Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
  - (c) Having made an estimate of the facilities available and needed for the contract to be bid, if any;
  - (d) Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin/s as provided under ITB Clause 10.4.
  - (e) Ensuring that it is not "blacklisted" or barred from bidding by the GoP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
  - (f) Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
  - (g) Authorizing the HoPE or its duly authorized representative/s to verify all the documents submitted;
  - (h) Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform

any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract, accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate, whichever is applicable;

- (i) Complying with the disclosure provision under Section 47 of RA 9184 and its IRR in relation to other provisions of RA 3019;
- (j) Complying with existing labor laws and standards, in the case of procurement of services. Moreover, bidder undertakes to:

- (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.

In case there is a finding by the Procuring Entity or the DOLE of underpayment or non-payment of workers' wage and wage-related benefits, bidder agrees that the performance security or portion of the contract amount shall be withheld in favor of the complaining workers pursuant to appropriate provisions of Republic Act No. 9184 without prejudice to the institution of appropriate actions under the Labor Code, as amended, and other social legislations.

- (ii) Comply with occupational safety and health standards and to correct deficiencies, if any.

In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and

- (iii) Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment's premises; and
- (k) Ensuring that it did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the;

Failure to observe any of the above responsibilities shall be at the risk of the Bidder concerned.

6.3. The Bidder, by the act of submitting its bid, shall be deemed to have inspected the site, determined the general characteristics of the contract works and the conditions for this Project and examine all instructions, forms, terms, and project requirements in the Bidding Documents.

6.4. It shall be the sole responsibility of the prospective bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all



matters pertaining to this Project, including: (a) the location and the nature of the contract, project, or work; (b) climatic conditions; (c) transportation facilities; (c) nature and condition of the terrain, geological conditions at the site communication facilities, requirements, location and availability of construction aggregates and other materials, labor, water, electric power and access roads; and (d) other factors that may affect the cost, duration and execution or implementation of the contract, project, or work.

- 6.5. The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the procuring entity. However, the Procuring Entity shall ensure that all information in the Bidding Documents, including supplemental/bid bulletins issued are correct and consistent.
- 6.6. Before submitting their bids, the Bidders are deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect the contract in any way.
- 6.7. The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.8. The Bidder should note that the Procuring Entity will accept bids only from those that have paid the applicable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

## **7. Origin of Goods and Services**

There is no restriction on the origin of Goods, or Contracting of Works or Services other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

## **8. Subcontracts**

- 8.1. Unless otherwise specified in the **BDS**, the Bidder may subcontract portions of the Works to an extent as may be approved by the Procuring Entity and stated in the **BDS**. However, subcontracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.
- 8.2. Subcontractors must submit the documentary requirements under ITB Clause 12 and comply with the eligibility criteria specified in the **BDS**. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Works shall be disallowed.
- 8.3. The Bidder may identify the subcontractor to whom a portion of the Works will be subcontracted at any stage of the bidding process or during contract implementation. If the Bidder opts to disclose the name of the subcontractor during bid submission, the Bidder shall include the required documents as part of the technical component of its bid.

## **B. Contents of Bidding Documents**

### **9. Pre-Bid Conference**

- (a) (a) If so specified in the **BDS**, a pre-bid conference shall be held at the venue and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Project.
- (b) The pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission of and receipt of bids, but not earlier than seven (7) calendar days from the posting of the Invitation to Bid/Bidding Documents in the PhilGEPS website. If the Procuring Entity determines that, by reason of the method, nature, or complexity of the contract to be bid, or when international participation will be more advantageous to the GoP, a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids, as specified in the **BDS**.

- 9.2. Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents as recorded in the minutes of the pre-bid conference and the Supplemental/Bid Bulletin. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference. The minutes shall be made available to prospective bidders not later than five (5) days upon written request.

Decisions of the BAC amending any provision of the bidding documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.

## **10. Clarification and Amendment of Bidding Documents**

- 10.1. Prospective bidders may request for clarification(s) on and/or interpretation of any part of the Bidding Documents. Such a request must be in writing and submitted to the Procuring Entity at the address indicated in the **BDS** at least ten (10) calendar days before the deadline set for the submission and receipt of Bids.
- 10.2. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin, to be made available to all those who have properly secured the Bidding Documents, at least seven (7) calendar days before the deadline for the submission and receipt of Bids.
- 10.3. Supplemental/Bid Bulletins may also be issued upon the Procuring Entity's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. Any modification to the Bidding Documents shall be identified as an amendment.
- 10.4. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS and the website of the Procuring Entity concerned, if available, and at any conspicuous place in the premises of the Procuring Entity concerned. It shall be the responsibility of all Bidders who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Bidders who have submitted bids before the

issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with ITB Clause 23.

## **C. Preparation of Bids**

### **11. Language of Bids**

The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.

### **12. Documents Comprising the Bid: Eligibility and Technical Components**

12.1. Unless otherwise indicated in the **BDS**, the first envelope shall contain the following eligibility and technical documents:

(a) **Eligibility Documents –**

**Class "A" Documents**

- (i) PhilGEPS Certificate of Registration and Membership (Platinum) in accordance with Section 8.5.2 of the IRR. For procurement to be performed overseas, it shall be subject to the Guidelines to be issued by the GPPB;
- (ii) Statement of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid; and

Statement of the Bidder's SLCC similar to the contract to be bid, in accordance with ITB Clause 5.4.

The two statements required shall indicate for each contract the following:

- (ii.1) name of the contract;
- (ii.2) date of the contract;
- (ii.3) contract duration;
- (ii.4) owner's name and address;

- (ii.5) nature of work;
- (ii.6) contractor's role (whether sole contractor, subcontractor, or partner in a JV) and percentage of participation;
- (ii.7) total contract value at award;
- (ii.8) date of completion or estimated completion time;
- (ii.9) total contract value at completion, if applicable;
- (ii.10) percentages of planned and actual accomplishments, if applicable; and
- (ii.11) value of outstanding works, if applicable.

The statement of the Bidder's SLCC shall be supported by the Notice of Award and/or Notice to Proceed, Project Owner's Certificate of Final Acceptance issued by the Owner other than the Contractor or the Constructors Performance Evaluation System (CPES) Final Rating, which must be at least satisfactory. In case of contracts with the private sector, an equivalent document shall be submitted;

- (iii) Unless otherwise provided in the BDS, a valid special PCAB License in case of joint ventures, and registration for the type and cost of the contract for this Project; and
- (iv) NFCC computation in accordance with ITB Clause 5.5.

#### Class "B" Documents

- (v) If applicable, Joint Venture Agreement (JVA) in accordance with RA 4566.

#### (b) Technical Documents –

- (i) Bid security in accordance with ITB Clause 18. If the Bidder opts to submit the bid security in the form of:
  - (i.1) a bank draft/guarantee or an irrevocable letter of credit issued by a foreign bank, it shall be accompanied by a confirmation from a Universal or Commercial Bank; or
  - (i.2) a surety bond accompanied by a certification coming from the Insurance Commission that the surety or insurance company is authorized to issue such instruments.
- (ii) Project Requirements, which shall include the following:
  - (ii.1) Organizational chart for the contract to be bid;
  - (ii.2) List of contractor's personnel (e.g., Project Manager, Project Engineers, Materials Engineers, and Foremen), to be assigned to the contract to be bid, with their

complete qualification and experience data. These personnel must meet the required minimum years of experience set in the **BDS**; and

- (ii.3) List of contractor's major equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership, certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be, which must meet the minimum requirements for the contract set in the **BDS**; and
- (iii) Sworn statement in accordance with Section 25.3 of the IRR of RA 9184 and using the form prescribed in Section IX. Bidding Forms.

### **13. Documents Comprising the Bid: Financial Component**

13.1. The financial component of the bid shall contain the following:

- (a) Financial Bid Form, which includes bid prices and the bill of quantities, in accordance with ITB Clauses 15.1 and 15.3; and
- (b) Any other document related to the financial component of the bid as stated in the **BDS**.

13.2. (a) Unless otherwise stated in the **BDS**, all Bids that exceed the ABC shall not be accepted.

- (b) Unless otherwise indicated in the **BDS**, for foreign-funded procurement, a ceiling may be applied to bid prices provided the following conditions are met:
  - (i) Bidding Documents are obtainable free of charge on a freely accessible website. If payment of Bidding Documents is required by the procuring entity, payment could be made upon the submission of bids.
  - (ii) The procuring entity has procedures in place to ensure that the ABC is based on recent estimates made by the engineer or the responsible unit of the procuring entity and that the estimates are based on adequate detailed engineering (in the case of infrastructure projects) and reflect the quality, supervision and risk and inflationary factors, as well as prevailing market prices, associated with the types of works or goods to be procured.
  - (iii) The procuring entity has trained cost estimators on estimating prices and analyzing bid variances. In the case of infrastructure projects, the procuring entity must also have trained quantity surveyors.
  - (iv) The procuring entity has established a system to monitor and report bid prices relative to ABC and engineer's/procuring entity's estimate.

- (v) The procuring entity has established a monitoring and evaluation system for contract implementation to provide a feedback on actual total costs of goods and works.

#### **14. Alternative Bids**

- 14.1. Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.
- 14.2. Bidders shall submit offers that comply with the requirements of the Bidding Documents, including the basic technical design as indicated in the drawings and specifications. Unless there is a value engineering clause in the BDS, alternative bids shall not be accepted.
- 14.3. Each Bidder shall submit only one Bid, either individually or as a partner in a JV. A Bidder who submits or participates in more than one bid (other than as a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

#### **15. Bid Prices**

- 15.1. The contract shall be for the whole Works, as described in ITB Clause 1.1, based on the priced Bill of Quantities submitted by the Bidder.
- 15.2. The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, Bill of Quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to the Government, except those required by law or regulations to be provided for.
- 15.3. All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, prior to the deadline for submission of bids, shall be included in the rates, prices, and total bid price submitted by the Bidder.
- 15.4. All bid prices for the given scope of work in the contract as awarded shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances as specified in GCC Clause 48. Upon the recommendation of the Procuring Entity, price escalation may be allowed in extraordinary circumstances as may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon approval by the GPPB. Furthermore, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GoP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

## 16. Bid Currencies

- 16.1. All bid prices shall be quoted in Philippine Pesos unless otherwise provided in the **BDS**. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate prevailing on the day of the Bid Opening.
- 16.2. If so allowed in accordance with ITB Clause 16.1, the Procuring Entity for purposes of bid evaluation and comparing the bid prices will convert the amounts in various currencies in which the bid price is expressed to Philippine Pesos at the exchange rate as published in the *Bangko Sentral ng Pilipinas* (BSP) reference rate bulletin on the day of the bid opening.
- 16.3. Unless otherwise specified in the **BDS**, payment of the contract price shall be made in Philippine Pesos.

## 17. Bid Validity

- 17.1. Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) calendar days from the date of the opening of bids.
- 17.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. The bid security described in ITB Clause 18 should also be extended corresponding to the extension of the bid validity period at the least. A Bidder may refuse the request without forfeiting its bid security, but his bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its bid.

## 18. Bid Security

- 18.1. The Bidder shall submit a Bid Securing Declaration or any form of Bid Security in an amount stated in the **BDS**, which shall be not less than the percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Not less than the Percentage of the ABC)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.  <i>For biddings conducted by LGUs, the cashier's/manager's check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i>	Two percent (2%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial	

<p>Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.</p> <p><i>For biddings conducted by LGUs, the Bank Draft/ Guarantee, or irrevocable letter of credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
<p>(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;</p>	<p>Five percent (5%)</p>

The Bid Securing Declaration mentioned above is an undertaking which states, among others, that the Bidder shall enter into contract with the procuring entity and furnish the performance security required under ITB Clause 32.2, within ten (10) calendar days from receipt of the Notice of Award, and commits to pay the corresponding amount as fine, and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as provided in the guidelines issued by the GPPB.

- 18.2. The bid security should be valid for the period specified in the **BDS**. Any bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.
- 18.3. No bid securities shall be returned to Bidders after the opening of bids and before contract signing, except to those that failed or declared as post-disqualified, upon submission of a written waiver of their right to file a request for reconsideration and/or protest, or lapse of the reglementary period without having filed a request for reconsideration or protest. Without prejudice on its forfeiture, Bid Securities shall be returned only after the Bidder with the Lowest Calculated Responsive Bid (LCRB) has signed the contract and furnished the Performance Security, but in no case later than the expiration of the Bid Security validity period indicated in ITB Clause 18.2.
- 18.4. Upon signing and execution of the contract, pursuant to ITB Clause 31, and the posting of the performance security, pursuant to ITB Clause 32, the successful Bidder's Bid Security will be discharged, but in no case later than the Bid Security validity period as indicated in ITB Clause 18.2.
- 18.5. The bid security may be forfeited:
  - (a) if a Bidder:
    - (i) withdraws its bid during the period of bid validity specified in ITB Clause 17;



- (ii) does not accept the correction of errors pursuant to ITB Clause 27.3(b);
  - (iii) has a finding against the veracity of the required documents submitted in accordance with ITB Clause 28.2;
  - (iv) submission of eligibility requirements containing false information or falsified documents;
  - (v) submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding;
  - (vi) allowing the use of one's name, or using the name of another for purposes of public bidding;
  - (vii) withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the LCRB;
  - (viii) refusal or failure to post the required performance security within the prescribed time;
  - (ix) refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
  - (x) any documented attempt by a Bidder to unduly influence the outcome of the bidding in his favor;
  - (xi) failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
  - (xii) all other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.
- (b) if the successful Bidder:
- (i) fails to sign the contract in accordance with ITB Clause 31;
  - (ii) fails to furnish performance security in accordance with ITB Clause 32.

## **19. Format and Signing of Bids**

- 19.1 Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section IX. Bidding Forms on or before the deadline specified in the ITB Clause 21 in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under ITB Clause 12.1, and the second shall contain the financial component of the bid. This shall also be observed for each lot in the case of lot procurement.

- 19.2 Forms as mentioned in ITB Clause 19.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.
- 19.3 The Bidder shall prepare and submit an original of the first and second envelopes as described in ITB Clauses 12 and 13. In addition, the Bidder shall submit copies of the first and second envelopes. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.4 Each and every page of the Bid Form, including the Bill of Quantities, under Section IX hereof, shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the bid.
- 19.5 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

## **20. Sealing and Marking of Bids**

- 20.1 Bidders shall enclose their original eligibility and technical documents described in ITB Clause 12, in one sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT," and the original of their financial component in another sealed envelope marked "ORIGINAL - FINANCIAL COMPONENT," sealing them all in an outer envelope marked "ORIGINAL BID."
- 20.2 Each copy of the first and second envelopes shall be similarly sealed duly marking the inner envelopes as "COPY NO. \_\_\_\_ - TECHNICAL COMPONENT" and "COPY NO. \_\_\_\_ - FINANCIAL COMPONENT" and the outer envelope as "COPY NO. \_\_\_\_," respectively. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 20.3 The original and the number of copies of the bid as indicated in the **BDS** shall be typed or written in ink and shall be signed by the Bidder or its duly authorized representative/s.
- 20.4 All envelopes shall:
  - (a) contain the name of the contract to be bid in capital letters;
  - (b) bear the name and address of the Bidder in capital letters;
  - (c) be addressed to the Procuring Entity's BAC in accordance with ITB Clause 21;
  - (d) bear the specific identification of this bidding process indicated in the ITB Clause 1.2; and
  - (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with ITB Clause 21.
- 20.5 Bid envelopes that are not properly sealed and marked, as required in the bidding documents, shall not be rejected, but the Bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC or the Procuring Entity shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.

## **D. Submission and Opening of Bids**

### **21. Deadline for Submission of Bids**

Bids must be received by the Procuring Entity's BAC at the address and on or before the date and time indicated in the **BDS**. In case the deadline for submission of bids fall on a non-working day duly declared by the president, governor or mayor or other government official authorized to make such declaration, the deadline shall be the next working day.

### **22. Late Bids**

Any bid submitted after the deadline for submission and receipt of bids prescribed by the Procuring Entity, pursuant to ITB Clause 21, shall be declared "Late" and shall not be accepted by the Procuring Entity. The BAC shall record in the minutes of Bid Submission and Opening, the Bidder's name, its representative and the time the late bid was submitted.

### **23. Modification and Withdrawal of Bids**

- 23.1. The Bidder may modify its bid after it has been submitted; provided that the modification is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed and properly identified in accordance with Clause 20, linked to its original bid marked as "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" and stamped "received" by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.
- 23.2. A Bidder may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the Procuring Entity prior to the deadline prescribed for submission and receipt of bids. The Letter of Withdrawal must be executed by the authorized representative of the Bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.
- 23.3. Bids requested to be withdrawn in accordance with ITB Clause 23.1 shall be returned unopened to the Bidders. A Bidder, who has acquired the bidding documents may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of bids. A Bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- 23.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Financial Bid Form. Withdrawal of a bid during this interval shall result in the forfeiture of the Bidder's bid security, pursuant to ITB Clause 18.5, and the imposition of administrative, civil, and criminal sanctions as prescribed by RA 9184 and its IRR.

## **24. Opening and Preliminary Examination of Bids**

- 24.1. The BAC shall open the Bids in public, immediately after the deadline for the submission and receipt of bids in public, as specified in the **BDS**. In case the Bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the Bids submitted and reschedule the opening of Bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the PhilGEPS website and the website of the Procuring Entity concerned.
- 24.2. Unless otherwise specified in the **BDS**, the BAC shall open the first bid envelopes and determine each Bidder's compliance with the documents prescribed in ITB Clause 12, using a non-discretionary "pass/fail" criterion. If a Bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed". Otherwise, the BAC shall rate the said first bid envelope as "passed".
- 24.3. Unless otherwise specified in the **BDS**, immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible Bidder whose first bid envelope was rated "passed." The second envelope of each complying Bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC unless otherwise provided in ITB Clause 13.2, the BAC shall rate the bid concerned as "failed." Only bids that are determined to contain all the bid requirements for both components shall be rated "passed" and shall immediately be considered for evaluation and comparison.
- 24.4. Letters of Withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened.
- 24.5. All members of the BAC who are present during bid opening shall initial every page of the original copies of all bids received and opened.
- 24.6. In the case of an eligible foreign bidder as described in ITB Clause 5, the following Class "A" Documents may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign bidder concerned, which shall likewise be uploaded and maintained in the PhilGEPS in accordance with Section 8.5.2 of the IRR.:
  - a) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives;
  - b) Mayor's/Business permit issued by the local government where the principal place of business of the Bidder is located; and
  - c) Audited Financial Statements showing, among others, the prospective Bidder's total and current assets and liabilities stamped "received" by the Bureau of Internal Revenue or its duly accredited and authorized institutions, for the preceding calendar year which should not be earlier than two years from the date of bid submission.

- 24.7. Each partner of a joint venture agreement shall likewise submit the document required in ITB Clause 12.1(a)(i). Submission of documents required under ITB Clauses 12.1(a)(ii) to 12.1(a)(iv) by any of the joint venture partners constitutes compliance.
- 24.8. The Procuring Entity shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.
- 24.8. The Bidders or their duly authorized representatives may attend the opening of bids. The BAC shall ensure the integrity, security, and confidentiality of all submitted bids. The Abstract of Bids as read and the minutes of the Bid Opening shall be made available to the public upon written request and payment of a specified fee to recover cost of materials.
- 24.9. To ensure transparency and accurate representation of the bid submission, the BAC Secretariat shall notify in writing all Bidders whose bids it has received through its PhilGEPS-registered physical address or official e-mail address. The notice shall be issued within seven (7) calendar days from the date of the bid opening.

## **E. Evaluation and Comparison of Bids**

### **25. Process to be Confidential**

- 25.1. Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any Bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise allowed in the case of ITB Clause 26.
- 25.2. Any effort by a Bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's bid.

### **26. Clarification of Bids**

To assist in the evaluation, comparison and post-qualification of the bids, the Procuring Entity may ask in writing any Bidder for a clarification of its bid. All responses to requests for clarification shall be in writing. Any clarification submitted by a Bidder in respect to its bid and that is not in response to a request by the Procuring Entity shall not be considered.

### **27. Detailed Evaluation and Comparison of Bids**

- 27.1. The Procuring Entity will undertake the detailed evaluation and comparison of Bids which have passed the opening and preliminary examination of Bids, pursuant to ITB Clause 24, in order to determine the Lowest Calculated Bid.
- 27.2. The Lowest Calculated Bid shall be determined in two steps:

- (a) The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
  - (b) The ranking of the total bid prices as so calculated from the lowest to highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 27.3. The Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary "pass/fail" criterion. The BAC shall consider the following in the evaluation of bids:
- (a) Completeness of the bid. Unless the **BDS** allows partial bids, bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to the Procuring Entity, except those required by law or regulations to be provided for; and
  - (b) Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications. Any adjustment shall be calculated in monetary terms to determine the calculated prices.
- 27.4. Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the **BDS**.
- 27.5. The Procuring Entity's evaluation of bids shall be based on the bid price quoted in the Bid Form, which includes the Bill of Quantities.
- 27.6. Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all Bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.
- 27.7. If so indicated pursuant to ITB Clause 1.2. Bids are being invited for individual lots or for any combination thereof, provided that all Bids and combinations of Bids shall be received by the same deadline and opened and evaluated simultaneously so as to determine the bid or combination of bids offering the lowest calculated cost to the Procuring Entity. Bid prices quoted shall correspond to all of the requirements specified for each lot. Bid Security as required by ITB Clause 18 shall be submitted for each contract (lot) separately. The basis for evaluation of lots is specified in **BDS** Clause 27.3.

## **28. Post Qualification**

- 28.1. The BAC shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid complies with and is responsive to all the requirements and conditions specified in ITB Clauses 5, 12, and 13.
- 28.2. Within a non-extendible period of five (5) calendar days from receipt by the Bidder of the notice from the BAC that it submitted the Lowest Calculated Bid, the Bidder shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) and other appropriate licenses and permits required by law and stated in the BDS.

Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the Bidder for award. Provided in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the bid security in accordance with Section 69 of the IRR of RA 9184.

- 28.3. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to ITB Clauses 12 and 13, as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary "pass/fail" criterion, which shall be completed within a period of twelve (12) calendar days.
- 28.4. If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the LCRB, and recommend to the HoPE the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower, subject to ITB Clause 30.3.
- 28.5. A negative determination shall result in rejection of the Bidder's bid, in which event the Procuring Entity shall proceed to the next Lowest Calculated Bid, with a fresh period to make a similar determination of that Bidder's capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the LCRB is determined for recommendation of contract award.
- 28.6. Within a period not exceeding fifteen (15) calendar days from the determination by the BAC of the LCRB and the recommendation to award the contract, the HoPE or his duly authorized representative shall approve or disapprove the said recommendation.
- 28.7. In the event of disapproval, which shall be based on valid, reasonable, and justifiable grounds as provided for under Section 41 of the IRR of RA 9184, the HoPE shall notify the BAC and the Bidder in writing of such decision and the grounds for it. When applicable, the BAC shall conduct a post-qualification of the Bidder with the next Lowest Calculated Bid. A request for reconsideration may be filed by the Bidder with the HoPE in accordance with Section 37.1.3 of the IRR of RA 9184.

## **29. Reservation Clause**

- 29.1. Notwithstanding the eligibility or post-qualification of a Bidder, the Procuring Entity concerned reserves the right to review its qualifications at any stage of

the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said Bidder, or that there has been a change in the Bidder's capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the Procuring Entity shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.

- 29.2. Based on the following grounds, the Procuring Entity reserves the right to reject any and all Bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:
- (a) If there is *prima facie* evidence of collusion between appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the Bidders, or if the collusion is between or among the Bidders themselves, or between a Bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
  - (b) If the Procuring Entity's BAC is found to have failed in following the prescribed bidding procedures; or
  - (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP as follows:
    - (i) If the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the HoPE;
    - (ii) If the project is no longer necessary as determined by the HoPE; and
    - (iii) If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.
- 29.3. In addition, the Procuring Entity may likewise declare a failure of bidding when:
- (a) No bids are received;
  - (b) All prospective Bidders are declared ineligible;
  - (c) All bids fail to comply with all the bid requirements, fail post-qualification; or
  - (d) The Bidder with the LCRB refuses, without justifiable cause, to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.



## **F. Award of Contract**

### **30. Contract Award**

- 30.1. Subject to ITB Clause 28, the HoPE or its duly authorized representative shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 30.2. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award duly received by the Bidder or its representative personally or by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the Procuring Entity.
- 30.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
  - (a) Submission of valid PCAB license and registration for the type and cost of the contract to be bid for foreign bidders when the Treaty or International or Executive Agreement expressly allows submission of the PCAB license and registration for the type and cost of the contract to be bid as a pre-condition to the Award, within ten (10) calendar days from receipt of the Notice of Award.
  - (b) Posting of the performance security in accordance with ITB Clause 32;
  - (c) Signing of the contract as provided in ITB Clause 31; and
  - (d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR of RA 9184.

### **31. Signing of the Contract**

- 31.1. At the same time as the Procuring Entity notifies the successful Bidder that its bid has been accepted, the Procuring Entity shall send the Contract Form to the Bidder, which Contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.
- 31.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security, sign and date the contract and return it to the Procuring Entity.
- 31.3. The Procuring Entity shall enter into contract with the successful Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.
- 31.4. The following documents shall form part of the contract:
  - (a) Contract Agreement;
  - (b) Bidding Documents;
  - (c) Winning Bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted (e.g., Bidder's response

to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;

- (d) Performance Security;
- (e) Notice of Award of Contract; and
- (f) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

## 32. Performance Security

32.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the Procuring Entity and in no case later than the signing of the contract.

32.2. The Performance Security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount not less than the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
<p>(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.</p> <p><i>For biddings conducted by the LGUs, the Cashier's/Manager's Check may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	Ten percent (10%)
<p>(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.</p> <p><i>For biddings conducted by the LGUs, Bank Draft/Guarantee, or Irrevocable Letter of Credit may be issued by other banks certified by the BSP as authorized to issue such financial instrument.</i></p>	
(c) Surety bond callable upon demand issued by a surety or	Thirty percent (30%)

insurance company duly certified by the Insurance Commission as authorized to issue such security.	
--	--

- 32.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event the Procuring Entity shall have a fresh period to initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until LCRB is identified and selected for recommendation of contract award. However if no Bidder passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement, if necessary.

### **33. Notice to Proceed**

Within seven (7) calendar days from the date of approval of the Contract by the appropriate government approving authority, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful Bidder. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.

### **34. Protest Mechanism**

Decision of the procuring entity at any stage of the procurement process may be questioned in accordance with Sections 55 of the IRR of RA 9184

**SECTION III**

**BID DATA SHEET**

## Bid Data Sheet

ITB Clause	
1.1	The Procuring Entity is <b>PHILIPPINE PORTS AUTHORITY</b> .
1.2	<p>The name of the Contract is: <b>COBO PORT DEVELOPMENT PROJECT, PORT OF COBO, PANDAN, CATANDUANES</b>.</p> <p>The identification number of the Contract is: <b>LFP BCL No. 005 – 2019</b>.</p> <p>The lot(s) and reference is/are:</p> <p><i>[insert name]</i></p>
2.	<p>The Funding Source is:</p> <p>The Government of the Philippines (GoP) through the Corporate Budget of the Authority for CY 2019 in the amount of <b>₱ 49,974,613.04</b>.</p> <p>The name of the Project is <i>Cobo Port Development Project, Port of Cobo, Pandan, Catanduanes</i>. (<b>LFP BNA No. 003 – 2019</b>)</p>
3.1	No further instructions.
5.1	No further instructions.
5.2	Bidding is restricted to eligible bidders as defined in ITB Clause 5.1.
5.4(a)	For this purpose, similar contracts shall refer to contracts which have the same major categories of work.
8.1	Subcontracting is not allowed
8.2	"Not applicable"
9.1	<p>The Procuring Entity will hold a pre-bid conference for this Project on:</p> <p style="text-align: center;"><b>28 March 2019</b> <b>10:00 a.m.</b></p> <p style="text-align: center;">At the PPA Function Room, 7<sup>th</sup> Floor, PPA Building Bonifacio Drive, South Harbor, Port Area, Manila</p>

10.1	<p>The Procuring Entity's address is:</p> <p>PPA Building A. Bonifacio Drive, South Harbor, Port Area, Manila</p> <p><b>MARK JON S. PALOMAR</b> Chairperson Head Office Bids and Awards Committee for Engineering Project Telephone Number 527 – 83 – 56 local 322 E – Mail Address : mjspalomar@ppa.com.ph</p>
10.4	No further instructions.
12.1	No further instructions.
12.1(a)(iii)	No further instructions.
12.1(b)(ii.2)	<p>The minimum work experience requirements for key personnel are the following:</p> <p>*Please refer to <u>Section IX</u> (Bidding Forms of the Bid Documents)</p>
12.1(b)(ii.3)	<p>The minimum major equipment requirements are the following:</p> <p>*Please refer to BQ Page 10"</p>
13.1(b)	<p>This shall include all of the following documents:</p> <ol style="list-style-type: none"> <li>1) Detailed estimates, including a summary sheet indicating the unit prices of construction materials, labor rates, and equipment rentals used in coming up with the Bid; and</li> <li>2) Cash flow by quarter or payment schedule.</li> </ol>
13.2	The ABC is <b>₱ 49,974,613.04</b> . Any bid with a financial component exceeding this amount shall not be accepted.
14.2	No further instructions.
16.1	The bid prices shall be quoted in Philippine Pesos.
16.3	No further instructions.
17.1	Bids will be valid until (not exceeding One Hundred Twenty (120) days from the date of the opening of bids.
18.1	The bid security shall be in the form of a Bid Securing Declaration or any of

	<p>the following forms and amounts:</p> <ol style="list-style-type: none"> <li>1. The amount of not less than <b>₱ 999,492.26</b>, if bid security is in cash, cashier's/manager's check, bank draft/guarantee or irrevocable letter of credit;</li> <li>2. The amount of not less than <b>₱ 2,498,730.65</b>, if bid security is in Surety Bond.</li> </ol>
18.2	The bid security shall be valid until One Hundred Twenty (120) days from the date set for Bid Opening.
20.3	Each Bidder shall submit One (1) original and Six (6) copies of their Technical and Financial Bid, properly book-bound with hard cover and corresponding index tab. Screw-bound, ring-bound and combo-bound documents are not acceptable. Failure to comply with these requirements shall be a ground for disqualification.
21	<p>The address for submission of bids is:</p> <p style="text-align: center;"><b>BAC Office, 5<sup>th</sup> Floor, PPA Building</b> <b>Bonifacio Drive, South Harbor, Port Area, Manila</b></p> <p>The deadline for submission of bids is:</p> <p style="text-align: center;"><b>15 April 2019</b> <b>09:00 a.m.</b></p>
24.1	<p>The place of bid opening is:</p> <p style="text-align: center;"><b>PPA Function Room, 7<sup>th</sup> Floor, PPA Building</b> <b>Bonifacio Drive, South Harbor, Port Area, Manila</b></p> <p>The date and time of bid opening is:</p> <p style="text-align: center;"><b>15 April 2019</b> <b>11:00 a.m.</b></p>
24.2	No further instructions.

24.3	No further instructions.
27.3	Partial bid is not allowed.
27.4	No further instructions.
28.2	"None."
31.4(f)	Other contract documents are as follows: Construction Schedule and S-Curve, Manpower Schedule, Construction Methods, Equipment Utilization Schedule, Construction Safety and Health Program approved by the department of Labor and Employment and PERT/CPM or other acceptable tools of project scheduling.



**SECTION IV**

**GENERAL CONDITIONS  
OF CONTRACT**

## 1. Definitions

For purposes of this Clause, boldface type is used to identify defined terms.

- 1.1. The **Arbiter** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in GCC Clause 21.
- 1.2. **Bill of Quantities** refers to a list of the specific items of the Work and their corresponding unit prices, lump sums, and/or provisional sums.
- 1.3. The **Completion Date** is the date of completion of the Works as certified by the Procuring Entity's Representative, in accordance with GCC Clause 49.
- 1.4. The **Contract** is the contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works.
- 1.5. The **Contract Effectivity Date** is the date of signing of the Contract. However, the contractor shall commence execution of the Works on the Start Date as defined in GCC Clause 1.28.
- 1.6. The **Contract Price** is the price stated in the Notice of Award and thereafter to be paid by the Procuring Entity to the Contractor for the execution of the Works in accordance with this Contract
- 1.7. **Contract Time Extension** is the allowable period for the Contractor to complete the Works in addition to the original Completion Date stated in this Contract.
- 1.8. The **Contractor** is the juridical entity whose proposal has been accepted by the Procuring Entity and to whom the Contract to execute the Work was awarded.
- 1.9. The **Contractor's Bid** is the signed offer or proposal submitted by the Contractor to the Procuring Entity in response to the Bidding Documents.
- 1.10. **Days** are calendar days; months are calendar months.
- 1.11. **Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- 1.12. A **Defect** is any part of the Works not completed in accordance with the Contract.
- 1.13. The **Defects Liability Certificate** is the certificate issued by Procuring Entity's Representative upon correction of defects by the Contractor.
- 1.14. The **Defects Liability Period** is the one year period between contract completion and final acceptance within which the Contractor assumes the responsibility to undertake the repair of any damage to the Works at his own expense.

- 1.15 **Drawings** are graphical presentations of the Works. They include all supplementary details, shop drawings, calculations, and other information provided or approved for the execution of this Contract.
- 1.16 **Equipment** refers to all facilities, supplies, appliances, materials or things required for the execution and completion of the Work provided by the Contractor and which shall not form or are not intended to form part of the Permanent Works.
- 1.17 The **Intended Completion Date** refers to the date specified in the SCC when the Contractor is expected to have completed the Works. The Intended Completion Date may be revised only by the Procuring Entity's Representative by issuing an extension of time or an acceleration order.
- 1.18 **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- 1.19 The **Notice to Proceed** is a written notice issued by the Procuring Entity or the Procuring Entity's Representative to the Contractor requiring the latter to begin the commencement of the work not later than a specified or determinable date.
- 1.20 **Permanent Works** are all permanent structures and all other project features and facilities required to be constructed and completed in accordance with this Contract which shall be delivered to the Procuring Entity and which shall remain at the Site after the removal of all Temporary Works.
- 1.21 **Plant** refers to the machinery, apparatus, and the like intended to form an integral part of the Permanent Works.
- 1.22 The **Procuring Entity** is the party who employs the Contractor to carry out the Works stated in the SCC.
- 1.23 The **Procuring Entity's Representative** refers to the Head of the Procuring Entity or his duly authorized representative, identified in the SCC, who shall be responsible for supervising the execution of the Works and administering this Contract.
- 1.24 The **Site** is the place provided by the Procuring Entity where the Works shall be executed and any other place or places which may be designated in the SCC, or notified to the Contractor by the Procuring Entity's Representative as forming part of the Site.
- 1.25 **Site Investigation Reports** are those that were included in the Bidding Documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- 1.26 **Slippage** is a delay in work execution occurring when actual accomplishment falls below the target as measured by the difference between the scheduled and actual accomplishment of the Work by the Contractor as established from the work schedule. This is actually described as a percentage of the whole Works.
- 1.27 **Specifications** means the description of Works to be done and the qualities of materials to be used, the equipment to be installed and the mode of construction.

- 1.28 The **Start Date**, as specified in the **SCC**, is the date when the Contractor is obliged to commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- 1.29 A **Subcontractor** is any person or organization to whom a part of the Works has been subcontracted by the Contractor, as allowed by the Procuring Entity, but not any assignee of such person.
- 1.30 **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Permanent Works.
- 1.31 **Work(s)** refer to the Permanent Works and Temporary Works to be executed by the Contractor in accordance with this Contract, including (i) the furnishing of all labor, materials, equipment and others incidental, necessary or convenient to the complete execution of the Works; (ii) the passing of any tests before acceptance by the Procuring Entity's Representative; (iii) and the carrying out of all duties and obligations of the Contractor imposed by this Contract as described in the **SCC**.

## 2. Interpretation

- 2.1. In interpreting the Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of this Contract unless specifically defined. The Procuring Entity's Representative will provide instructions clarifying queries about the Conditions of Contract.
- 2.2. If sectional completion is specified in the **SCC**, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3. The documents forming this Contract shall be interpreted in the following order of priority:
- a) Contract Agreement;
  - b) Bid Data Sheet;
  - c) Instructions to Bidders;
  - d) Addenda to the Bidding Documents;
  - e) Special Conditions of Contract;
  - f) General Conditions of Contract;
  - g) Specifications;
  - h) Bill of Quantities; and
  - i) Drawings.

### 3. Governing Language and Law

- 3.1. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract which are exchanged by the parties shall be written in English.
- 3.2. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

### 4. Communications

Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is received by the concerned party.

### 5. Possession of Site

- 5.1. On the date specified in the **SCC**, the Procuring Entity shall grant the Contractor possession of so much of the Site as may be required to enable it to proceed with the execution of the Works. If the Contractor suffers delay or incurs cost from failure on the part of the Procuring Entity to give possession in accordance with the terms of this clause, the Procuring Entity's Representative shall give the Contractor a Contract Time Extension and certify such sum as fair to cover the cost incurred, which sum shall be paid by Procuring Entity.
- 5.2. If possession of a portion is not given by the date stated in the SCC Clause 5.1, the Procuring Entity will be deemed to have delayed the start of the relevant activities. The resulting adjustments in contract time to address such delay shall be in accordance with GCC Clause 47.
- 5.3. The Contractor shall bear all costs and charges for special or temporary right-of-way required by it in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by it for purposes of the Works.
- 5.4. The Contractor shall allow the Procuring Entity's Representative and any person authorized by the Procuring Entity's Representative access to the Site and to any place where work in connection with this Contract is being carried out or is intended to be carried out.

### 6. The Contractor's Obligations

- 6.1. The Contractor shall carry out the Works properly and in accordance with this Contract. The Contractor shall provide all supervision, labor, Materials, Plant and Contractor's Equipment, which may be required. All Materials and Plant on Site shall be deemed to be the property of the Procuring Entity.
- 6.2. The Contractor shall commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program of Work submitted by the Contractor, as updated with the approval of the Procuring Entity's Representative, and complete them by the Intended Completion Date.
- 6.3. The Contractor shall be responsible for the safety of all activities on the Site.

- 6.4. The Contractor shall carry out all instructions of the Procuring Entity's Representative that comply with the applicable laws where the Site is located.
- 6.5. The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the SCC, to carry out the supervision of the Works. The Procuring Entity will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or better than those of the personnel listed in the Schedule.
- 6.6. If the Procuring Entity's Representative asks the Contractor to remove a member of the Contractor's staff or work force, for justifiable cause, the Contractor shall ensure that the person leaves the Site within seven (7) days and has no further connection with the Work in this Contract.
- 6.7. During Contract implementation, the Contractor and his subcontractors shall abide at all times by all labor laws, including child labor related enactments, and other relevant rules.
- 6.8. The Contractor shall submit to the Procuring Entity for consent the name and particulars of the person authorized to receive instructions on behalf of the Contractor.
- 6.9. The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the schedule of other contractors particularly when they shall require access to the Site. The Contractor shall also provide facilities and services for them during this period. The Procuring Entity may modify the schedule of other contractors, and shall notify the Contractor of any such modification thereto.
- 6.10. Should anything of historical or other interest or of significant value be unexpectedly discovered on the Site, it shall be the property of the Procuring Entity. The Contractor shall notify the Procuring Entity's Representative of such discoveries and carry out the Procuring Entity's Representative's instructions in dealing with them.

## **7. Performance Security**

- 7.1. Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the Contractor shall furnish the performance security in any of the forms prescribed in ITB Clause 32.2.
- 7.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the Contractor is in default in any of its obligations under the Contract.
- 7.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 7.4. The performance security may be released by the Procuring Entity and returned to the Contractor after the issuance of the Certificate of Final Acceptance subject to the following conditions:
  - (a) There are no pending claims against the Contractor or the surety company filed by the Procuring Entity;

- (b) The Contractor has no pending claims for labor and materials filed against it; and
- (c) Other terms specified in the SCC.

- 7.5. The Contractor shall post an additional performance security following the amount and form specified in ITB Clause 32.2 to cover any cumulative increase of more than ten percent (10%) over the original value of the contract as a result of amendments to order or change orders, extra work orders and supplemental agreements, as the case may be. The Contractor shall cause the extension of the validity of the performance security to cover approved contract time extensions.
- 7.6. In case of a reduction in the contract value or for partially completed Works under the contract which are usable and accepted by the Procuring Entity the use of which, in the judgment of the implementing agency or the Procuring Entity, will not affect the structural integrity of the entire project, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.
- 7.7. Unless otherwise indicated in the SCC, the Contractor, by entering into the Contract with the Procuring Entity, acknowledges the right of the Procuring Entity to institute action pursuant to Act 3688 against any subcontractor be they an individual, firm, partnership, corporation, or association supplying the Contractor with labor, materials and/or equipment for the performance of this Contract.

## 8. Subcontracting

- 8.1. Unless otherwise indicated in the SCC, the Contractor cannot subcontract Works more than the percentage specified in BDS Clause 8.1.
- 8.2. Subcontracting of any portion of the Works does not relieve the Contractor of any liability or obligation under this Contract. The Contractor will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Contractor's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 8.3. If subcontracting is allowed. The contractor may identify its subcontractor during contract implementation stage. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under ITB Clause 12 and comply with the eligibility criteria specified in the BDS. In the event that any subcontractor is found by any Procuring Entity to be eligible, the subcontracting of such portion of the Works shall be disallowed.

## 9. Liquidated Damages

- 9.1. The Contractor shall pay liquidated damages to the Procuring Entity for each day that the Completion Date is later than the Intended Completion Date. The applicable liquidated damages is at least one-tenth (1/10) of a percent of the cost of the unperformed portion for every day of delay. The total amount of liquidated damages shall not exceed ten percent (10%) of the amount of the contract. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of this

Contract, the Procuring Entity may rescind or terminate this Contract, without prejudice to other courses of action and remedies available under the circumstances.

- 9.2. If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer of the Procuring Entity shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

## 10. Site Investigation Reports

The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the SCC supplemented by any information obtained by the Contractor.

## 11. The Procuring Entity, Licenses and Permits

The Procuring Entity shall, if requested by the Contractor, assist him in applying for permits, licenses or approvals, which are required for the Works.

## 12. Contractor's Risk and Warranty Security

- 12.1. The Contractor shall assume full responsibility for the Works from the time project construction commenced up to final acceptance by the Procuring Entity and shall be held responsible for any damage or destruction of the Works except those occasioned by *force majeure*. The Contractor shall be fully responsible for the safety, protection, security, and convenience of his personnel, third parties, and the public at large, as well as the Works, Equipment, installation, and the like to be affected by his construction work.
- 12.2. The defects liability period for infrastructure projects shall be one year from contract completion up to final acceptance by the Procuring Entity. During this period, the Contractor shall undertake the repair works, at his own expense, of any damage to the Works on account of the use of materials of inferior quality within ninety (90) days from the time the HoPE has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the Procuring Entity shall undertake such repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand.
- 12.3. Unless otherwise indicated in the SCC, in case the Contractor fails to comply with the preceding paragraph, the Procuring Entity shall forfeit its performance security, subject its property(ies) to attachment or garnishment proceedings, and perpetually disqualify it from participating in any public bidding. All payables of the GoP in his favor shall be offset to recover the costs.
- 12.4. After final acceptance of the Works by the Procuring Entity, the Contractor shall be held responsible for "Structural Defects," *i.e.*, major faults/flaws/deficiencies in one or more key structural elements of the project which may lead to structural failure of the completed elements or structure, or "Structural Failures," *i.e.*, where one or more key structural elements in an infrastructure facility fails or collapses, thereby rendering the facility or part thereof incapable of withstanding the design loads, and/or endangering the safety of the users or the general public:
- (a) Contractor – Where Structural Defects/Failures arise due to faults attributable to improper construction, use of inferior quality/substandard materials, and any violation of the contract plans and specifications, the contractor shall be held liable;



- (b) **Consultants** – Where Structural Defects/Failures arise due to faulty and/or inadequate design and specifications as well as construction supervision, then the consultant who prepared the design or undertook construction supervision for the project shall be held liable;
  - (c) **Procuring Entity's Representatives/Project Manager/Construction Managers and Supervisors** – The project owner's representative(s), project manager, construction manager, and supervisor(s) shall be held liable in cases where the Structural Defects/Failures are due to his/their willful intervention in altering the designs and other specifications; negligence or omission in not approving or acting on proposed changes to noted defects or deficiencies in the design and/or specifications; and the use of substandard construction materials in the project;
  - (d) **Third Parties** - Third Parties shall be held liable in cases where Structural Defects/Failures are caused by work undertaken by them such as leaking pipes, diggings or excavations, underground cables and electrical wires, underground tunnel, mining shaft and the like, in which case the applicable warranty to such structure should be levied to third parties for their construction or restoration works.
  - (e) **Users** - In cases where Structural Defects/Failures are due to abuse/misuse by the end user of the constructed facility and/or non-compliance by a user with the technical design limits and/or intended purpose of the same, then the user concerned shall be held liable.
- 12.5. The warranty against Structural Defects/Failures, except those occasioned on force majeure, shall cover the period specified in the SCC reckoned from the date of issuance of the Certificate of Final Acceptance by the Procuring Entity.
- 12.6. The Contractor shall be required to put up a warranty security in the form of cash, bank guarantee, letter of credit, GSIS or surety bond callable on demand, in accordance with the following schedule:

Form of Warranty	Amount of Warranty Security Not less than the Percentage (%) of Total Contract Price
(a) Cash or letter of credit issued by Universal or Commercial bank: provided, however, that the letter of credit shall be confirmed or authenticated by a Universal or Commercial bank, if issued by a foreign bank	Five Percent (5%)
(b) Bank guarantee confirmed by Universal or Commercial bank: provided, however, that the letter of credit shall be confirmed or authenticated by a Universal or Commercial bank, if issued by a foreign bank	Ten Percent (10%)

(c) Surety bond callable upon demand issued by GSIS or any surety or insurance company duly certified by the Insurance Commission	Thirty Percent (30%)
---	----------------------

- 12.7. The warranty security shall be stated in Philippine Pesos and shall remain effective for one year from the date of issuance of the Certificate of Final Acceptance by the Procuring Entity, and returned only after the lapse of said one year period.
- 12.8. In case of structural defects/failure occurring during the applicable warranty period provided in GCC Clause 12.5, the Procuring Entity shall undertake the necessary restoration or reconstruction works and shall be entitled to full reimbursement by the parties found to be liable for expenses incurred therein upon demand, without prejudice to the filing of appropriate administrative, civil, and/or criminal charges against the responsible persons as well as the forfeiture of the warranty security posted in favor of the Procuring Entity.

### 13. Liability of the Contractor

Subject to additional provisions, if any, set forth in the **SCC**, the Contractor's liability under this Contract shall be as provided by the laws of the Republic of the Philippines.

### 14. Procuring Entity's Risk

- 14.1. From the Start Date until the Certificate of Final Acceptance has been issued, the following are risks of the Procuring Entity:
- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
    - (i) any type of use or occupation of the Site authorized by the Procuring Entity after the official acceptance of the works; or
    - (ii) negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.
  - (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

### 15. Insurance

- 15.1. The Contractor shall, under his name and at his own expense, obtain and maintain, for the duration of this Contract, the following insurance coverage:
- (a) Contractor's All Risk Insurance;
  - (b) Transportation to the project Site of Equipment, Machinery, and Supplies owned by the Contractor;
  - (c) Personal injury or death of Contractor's employees; and

- (d) Comprehensive insurance for third party liability to Contractor's direct or indirect act or omission causing damage to third persons.

- 15.2. The Contractor shall provide evidence to the Procuring Entity's Representative that the insurances required under this Contract have been effected and shall, within a reasonable time, provide copies of the insurance policies to the Procuring Entity's Representative. Such evidence and such policies shall be provided to the Procuring Entity's through the Procuring Entity's Representative.
- 15.3. The Contractor shall notify the insurers of changes in the nature, extent, or program for the execution of the Works and ensure the adequacy of the insurances at all times in accordance with the terms of this Contract and shall produce to the Procuring Entity's Representative the insurance policies in force including the receipts for payment of the current premiums.

The above insurance policies shall be obtained from any reputable insurance company approved by the Procuring Entity's Representative.

- 15.4. If the Contractor fails to obtain and keep in force the insurances referred to herein or any other insurance which he may be required to obtain under the terms of this Contract, the Procuring Entity may obtain and keep in force any such insurances and pay such premiums as may be necessary for the purpose. From time to time, the Procuring Entity may deduct the amount it shall pay for said premiums including twenty five percent (25%) therein from any monies due, or which may become due, to the Contractor, without prejudice to the Procuring Entity exercising its right to impose other sanctions against the Contractor pursuant to the provisions of this Contract.
- 15.5. In the event the Contractor fails to observe the above safeguards, the Procuring Entity may, at the Contractor's expense, take whatever measure is deemed necessary for its protection and that of the Contractor's personnel and third parties, and/or order the interruption of dangerous Works. In addition, the Procuring Entity may refuse to make the payments under GCC Clause 40 until the Contractor complies with this Clause.
- 15.6. The Contractor shall immediately replace the insurance policy obtained as required in this Contract, without need of the Procuring Entity's demand, with a new policy issued by a new insurance company acceptable to the Procuring Entity for any of the following grounds:
  - (a) The issuer of the insurance policy to be replaced has:
    - (i) become bankrupt;
    - (ii) been placed under receivership or under a management committee;
    - (iii) been sued for suspension of payment; or
    - (iv) been suspended by the Insurance Commission and its license to engage in business or its authority to issue insurance policies cancelled; or
    - (v) Where reasonable grounds exist that the insurer may not be able, fully and promptly, to fulfill its obligation under the insurance policy.

## **16. Termination for Default of Contractor**

16.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attend its implementation:

- (i) Due to the Contractor's fault and while the project is on-going, it has incurred negative slippage of fifteen percent (15%) or more in accordance with Presidential Decree 1870, regardless of whether or not previous warnings and notices have been issued for the Contractor to improve his performance;
- (ii) Due to its own fault and after this Contract time has expired, the Contractor incurs delay in the completion of the Work after this Contract has expired; or
- (iii) The Contractor:
  - (i) abandons the contract Works, refuses or fails to comply with a valid instruction of the Procuring Entity or fails to proceed expeditiously and without delay despite a written notice by the Procuring Entity;
  - (ii) does not actually have on the project Site the minimum essential equipment listed on the bid necessary to prosecute the Works in accordance with the approved Program of Work and equipment deployment schedule as required for the project;
  - (iii) does not execute the Works in accordance with this Contract or persistently or flagrantly neglects to carry out its obligations under this Contract;
  - (iv) neglects or refuses to remove materials or to perform a new Work that has been rejected as defective or unsuitable; or
  - (v) sub-lets any part of this Contract without approval by the Procuring Entity.

16.2. All materials on the Site, Plant, Works, including Equipment purchased and funded under the Contract shall be deemed to be the property of the Procuring Entity if this Contract is rescinded because of the Contractor's default.

## **17. Termination for Default of Procuring Entity**

The Contractor may terminate this Contract with the Procuring Entity if the works are completely stopped for a continuous period of at least sixty (60) calendar days through no fault of its own, due to any of the following reasons:

- (a) Failure of the Procuring Entity to deliver, within a reasonable time, supplies, materials, right-of-way, or other items it is obligated to furnish under the terms of this Contract; or
- (b) The prosecution of the Work is disrupted by the adverse peace and order situation, as certified by the Armed Forces of the Philippines Provincial Commander and approved by the Secretary of National Defense.

## **18. Termination for Other Causes**

- 18.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. The HoPE may terminate this Contract for the convenience of the Procuring Entity if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and National Government policies.
- 18.2. The Procuring Entity or the Contractor may terminate this Contract if the other party causes a fundamental breach of this Contract.
- 18.3. Fundamental breaches of Contract shall include, but shall not be limited to, the following:
  - (a) The Contractor stops work for twenty eight (28) days when no stoppage of work is shown on the current Program of Work and the stoppage has not been authorized by the Procuring Entity's Representative;
  - (b) The Procuring Entity's Representative instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within twenty eight (28) days;
  - (c) The Procuring Entity shall terminate this Contract if the Contractor is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Contractor, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Contractor. In the case of the Contractor's insolvency, any Contractor's Equipment which the Procuring Entity instructs in the notice is to be used until the completion of the Works;
  - (d) A payment certified by the Procuring Entity's Representative is not paid by the Procuring Entity to the Contractor within eighty four (84) days from the date of the Procuring Entity's Representative's certificate;
  - (e) The Procuring Entity's Representative gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Procuring Entity's Representative;
  - (f) The Contractor does not maintain a Security, which is required;
  - (g) The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the GCC Clause 9; and
  - (h) In case it is determined prima facie by the Procuring Entity that the Contractor has engaged, before or during the implementation of the contract, in unlawful deeds and behaviors relative to contract acquisition and implementation, such as, but not limited to, the following:

- (i) corrupt, fraudulent, collusive, coercive, and obstructive practices as defined in ITB Clause 3.1(a), unless otherwise specified in the SCC;
  - (ii) drawing up or using forged documents;
  - (iii) using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
  - (iv) any other act analogous to the foregoing.
- 18.4. The Funding Source or the Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with corrupt, fraudulent, or coercive practices.
- 18.5. When persons from either party to this Contract gives notice of a fundamental breach to the Procuring Entity's Representative in order to terminate the existing contract for a cause other than those listed under GCC Clause 18.3, the Procuring Entity's Representative shall decide whether the breach is fundamental or not.
- 18.6. If this Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

## **19. Procedures for Termination of Contracts**

- 19.1. The following provisions shall govern the procedures for the 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 Procuring Entity 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 Procuring Entity, the HoPE shall terminate this Contract only by a written notice to the Contractor conveying the termination of this Contract. The notice shall state:
    - (i) that this Contract is being terminated for any of the ground(s) afore-mentioned, and a statement of the acts that constitute the ground(s) constituting the same;
    - (ii) the extent of termination, whether in whole or in part;
    - (iii) an instruction to the Contractor to show cause as to why this Contract should not be terminated; and
    - (iv) special instructions of the Procuring Entity, if any.

The Notice to Terminate shall be accompanied by a copy of the Verified Report;
  - (c) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Contractor shall submit to the HoPE a verified position

paper stating why the contract should not be terminated. If the Contractor fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating the contract;

- (d) The Procuring Entity may, at anytime before receipt of the Contractor's verified position paper described in item (c) above 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 Contractor's receipt of the notice;
- (e) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Contractor of its decision and, unless otherwise provided in the said notice, this Contract is deemed terminated from receipt of the Contractor of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate; and
- (f) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE.

19.2. Pursuant to Section 69(f) of RA 9184 and without prejudice to the imposition of additional administrative sanctions as the internal rules of the agency may provide and/or further criminal prosecution as provided by applicable laws, the procuring entity shall impose on contractors after the termination of the contract the penalty of suspension for one (1) year for the first offense, suspension for two (2) years for the second offense from participating in the public bidding process, for violations committed during the contract implementation stage, which include but not limited to the following:

- (a) Failure of the contractor, due solely to his fault or negligence, to mobilize and start work or performance within the specified period in the Notice to Proceed ("NTP");
- (b) Failure by the contractor to fully and faithfully comply with its contractual obligations without valid cause, or failure by the contractor to comply with any written lawful instruction of the procuring entity or its representative(s) pursuant to the implementation of the contract. For the procurement of infrastructure projects or consultancy contracts, lawful instructions include but are not limited to the following:
  - (i) Employment of competent technical personnel, competent engineers and/or work supervisors;
  - (ii) Provision of warning signs and barricades in accordance with approved plans and specifications and contract provisions;
  - (iii) Stockpiling in proper places of all materials and removal from the project site of waste and excess materials, including broken pavement and excavated debris in accordance with approved plans and specifications and contract provisions;

- (iv) Deployment of committed equipment, facilities, support staff and manpower; and
  - (v) Renewal of the effectivity dates of the performance security after its expiration during the course of contract implementation.
- (c) Assignment and subcontracting of the contract or any part thereof or substitution of key personnel named in the proposal without prior written approval by the procuring entity.
- (d) Poor performance by the contractor or unsatisfactory quality and/or progress of work arising from his fault or negligence as reflected in the Constructor's Performance Evaluation System ("CPES") rating sheet. In the absence of the CPES rating sheet, the existing performance monitoring system of the procuring entity shall be applied. Any of the following acts by the Contractor shall be construed as poor performance:
- (i) Negative slippage of 15% and above within the critical path of the project due entirely to the fault or negligence of the contractor; and
  - (ii) Quality of materials and workmanship not complying with the approved specifications arising from the contractor's fault or negligence.
- (e) Willful or deliberate abandonment or non-performance of the project or contract by the contractor resulting to substantial breach thereof without lawful and/or just cause.

In addition to the penalty of suspension, the performance security posted by the contractor shall also be forfeited.

## **20. Force Majeure, Release From Performance**

- 20.1. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Contractor could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Contractor.
- 20.2. If this Contract is discontinued by an outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Procuring Entity's Representative shall certify that this Contract has been discontinued. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and for any Work carried out afterwards to which a commitment was made.
- 20.3. If the event continues for a period of eighty four (84) days, either party may then give notice of termination, which shall take effect twenty eight (28) days after the giving of the notice.
- 20.4. After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the materials and Plant reasonably delivered to the Site, adjusted by the following:



- (a) any sum to which the Contractor is entitled under GCC Clause 28;
- (b) the cost of his suspension and demobilization;
- (c) any sum to which the Procuring Entity is entitled.

20.5. The net balance due shall be paid or repaid within a reasonable time period from the time of the notice of termination.

## **21. Resolution of Disputes**

- 21.1. If any dispute or difference of any kind whatsoever shall arise between the parties in connection with the implementation of the contract covered by the Act and this IRR, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 21.2. If the Contractor believes that a decision taken by the Procuring Entity's Representative was either outside the authority given to the Procuring Entity's Representative by this Contract or that the decision was wrongly taken, the decision shall be referred to the Arbiter indicated in the **SCC** within fourteen (14) days of the notification of the Procuring Entity's Representative's decision.
- 21.3. Any and all disputes arising from the implementation of this Contract covered by the R.A. 9184 and its IRR shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law" and Republic Act 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004": *Provided, however, That, disputes that are within the competence of the Construction Industry Arbitration Commission to resolve shall be referred thereto. The process of arbitration shall be incorporated as a provision in this Contract that will be executed pursuant to the provisions of the Act and its IRR: Provided, further, That, by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.*

## **22. Suspension of Loan, Credit, Grant, or Appropriation**

In the event that the Funding Source suspends the Loan, Credit, Grant, or Appropriation to the Procuring Entity, from which part of the payments to the Contractor are being made:

- (a) The Procuring Entity is obligated to notify the Contractor of such suspension within seven (7) days of having received the suspension notice.
- (b) If the Contractor has not received sums due it for work already done within forty five (45) days from the time the Contractor's claim for payment has been certified by the Procuring Entity's Representative, the Contractor may immediately issue a suspension of work notice in accordance with GCC Clause 45.2.

## **23. Procuring Entity's Representative's Decisions**

- 23.1. Except where otherwise specifically stated, the Procuring Entity's Representative will decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.

- 23.2. The Procuring Entity's Representative may delegate any of his duties and responsibilities to other people, except to the Arbitrator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

#### **24. Approval of Drawings and Temporary Works by the Procuring Entity's Representative**

- 24.1. All Drawings prepared by the Contractor for the execution of the Temporary Works, are subject to prior approval by the Procuring Entity's Representative before its use.
- 24.2. The Contractor shall be responsible for design of Temporary Works.
- 24.3. The Procuring Entity's Representative's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 24.4. The Contractor shall obtain approval of third parties to the design of the Temporary Works, when required by the Procuring Entity.

#### **25. Acceleration and Delays Ordered by the Procuring Entity's Representative**

- 25.1. When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Procuring Entity's Representative will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.
- 25.2. If the Contractor's Financial Proposals for an acceleration are accepted by the Procuring Entity, they are incorporated in the Contract Price and treated as a Variation.

#### **26. Extension of the Intended Completion Date**

- 26.1. The Procuring Entity's Representative shall extend the Intended Completion Date if a Variation is issued which makes it impossible for the Intended Completion Date to be achieved by the Contractor without taking steps to accelerate the remaining work, which would cause the Contractor to incur additional costs. No payment shall be made for any event which may warrant the extension of the Intended Completion Date.
- 26.2. The Procuring Entity's Representative shall decide whether and by how much to extend the Intended Completion Date within twenty one (21) days of the Contractor asking the Procuring Entity's Representative for a decision thereto after fully submitting all supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

#### **27. Right to Vary**

- 27.1. The Procuring Entity's Representative with the prior approval of the Procuring Entity may instruct Variations, up to a maximum cumulative amount of ten percent (10%) of the original contract cost.
- 27.2. Variations shall be valued as follows:
- (a) At a lump sum price agreed between the parties;
  - (b) where appropriate, at rates in this Contract;

- (c) in the absence of appropriate rates, the rates in this Contract shall be used as the basis for valuation; or failing which
- (d) at appropriate new rates, equal to or lower than current industry rates and to be agreed upon by both parties and approved by the HoPE.

## **28. Contractor's Right to Claim**

If the Contractor incurs cost as a result of any of the events under GCC Clause 13, the Contractor shall be entitled to the amount of such cost. If as a result of any of the said events, it is necessary to change the Works, this shall be dealt with as a Variation.

## **29. Dayworks**

- 29.1. Subject to GCC Clause 43 on Variation Order, and if applicable as indicated in the SCC, the Dayworks rates in the Contractor's bid shall be used for small additional amounts of work only when the Procuring Entity's Representative has given written instructions in advance for additional work to be paid for in that way.
- 29.2. All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Procuring Entity's Representative. Each completed form shall be verified and signed by the Procuring Entity's Representative within two days of the work being done.
- 29.3. The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

## **30. Early Warning**

- 30.1. The Contractor shall warn the Procuring Entity's Representative at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Procuring Entity's Representative may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 30.2. The Contractor shall cooperate with the Procuring Entity's Representative in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Procuring Entity's Representative.

## **31. Program of Work**

- 31.1. Within the time stated in the SCC, the Contractor shall submit to the Procuring Entity's Representative for approval a Program of Work showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 31.2. An update of the Program of Work shall show the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 31.3. The Contractor shall submit to the Procuring Entity's Representative for approval an updated Program of Work at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program of Work within this period, the Procuring Entity's Representative may withhold the amount stated in the SCC from the

next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program of Work has been submitted.

- 31.4. The Procuring Entity's Representative's approval of the Program of Work shall not alter the Contractor's obligations. The Contractor may revise the Program of Work and submit it to the Procuring Entity's Representative again at any time. A revised Program of Work shall show the effect of any approved Variations.
- 31.5. When the Program of Work is updated, the Contractor shall provide the Procuring Entity's Representative with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.
- 31.6. All Variations shall be included in updated Program of Work produced by the Contractor.

## **32. Management Conferences**

- 32.1. Either the Procuring Entity's Representative or the Contractor may require the other to attend a Management Conference. The Management Conference shall review the plans for remaining work and deal with matters raised in accordance with the early warning procedure.
- 32.2. The Procuring Entity's Representative shall record the business of Management Conferences and provide copies of the record to those attending the Conference and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Procuring Entity's Representative either at the Management Conference or after the Management Conference and stated in writing to all who attended the Conference.

## **33. Bill of Quantities**

- 33.1. The Bill of Quantities shall contain items of work for the construction, installation, testing, and commissioning of work to be done by the Contractor.
- 33.2. The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
- 33.3. If the final quantity of any work done differs from the quantity in the Bill of Quantities for the particular item and is not more than twenty five percent (25%) of the original quantity, provided the aggregate changes for all items do not exceed ten percent (10%) of the Contract price, the Procuring Entity's Representative shall make the necessary adjustments to allow for the changes subject to applicable laws, rules, and regulations.
- 33.4. If requested by the Procuring Entity's Representative, the Contractor shall provide the Procuring Entity's Representative with a detailed cost breakdown of any rate in the Bill of Quantities.

## **34. Instructions, Inspections and Audits**

- 34.1. The Procuring Entity's personnel shall at all reasonable times during construction of the Work be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of the construction.

- 34.2. If the Procuring Entity's Representative instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no defect, the test shall be a Compensation Event.
- 34.3. The Contractor shall permit the Funding Source named in the **SCC** to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

### **35. Identifying Defects**

The Procuring Entity's Representative shall check the Contractor's work and notify the Contractor of any defects that are found. Such checking shall not affect the Contractor's responsibilities. The Procuring Entity's Representative may instruct the Contractor to search uncover defects and test any work that the Procuring Entity's Representative considers below standards and defective.

### **36. Cost of Repairs**

Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability Periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

### **37. Correction of Defects**

- 37.1. The Procuring Entity's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which is One (1) year from project completion up to final acceptance by the Procuring Entity's Representative.
- 37.2. Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified in the Procuring Entity's Representative's notice.
- 37.3. The Contractor shall correct the defects which he notices himself before the end of the Defects Liability Period.
- 37.4. The Procuring Entity shall certify that all defects have been corrected. If the Procuring Entity considers that correction of a defect is not essential, he can request the Contractor to submit a quotation for the corresponding reduction in the Contract Price. If the Procuring Entity accepts the quotation, the corresponding change in the SCC is a Variation.

### **38. Uncorrected Defects**

- 38.1. The Procuring Entity shall give the Contractor at least fourteen (14) days notice of his intention to use a third party to correct a Defect. If the Contractor does not correct the Defect himself within the period, the Procuring Entity may have the Defect corrected by the third party. The cost of the correction will be deducted from the Contract Price.
- 38.2. The use of a third party to correct defects that are uncorrected by the Contractor will in no way relieve the Contractor of its liabilities and warranties under the Contract.

### **39. Advance Payment**

- 39.1. The Procuring Entity shall, upon a written request of the contractor which shall be submitted as a contract document, make an advance payment to the contractor in an amount not exceeding fifteen percent (15%) of the total contract price, to be made in lump sum or, at the most two, installments according to a schedule specified in the SCC.
- 39.2. The advance payment shall be made only upon the submission to and acceptance by the Procuring Entity of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by the Procuring Entity.
- 39.3. The advance payment shall be repaid by the Contractor by an amount equal to the percentage of the total contract price used for the advance payment.
- 39.4. The contractor may reduce his standby letter of credit or guarantee instrument by the amounts refunded by the Monthly Certificates in the advance payment.
- 39.5. The Procuring Entity will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to the maximum amount stated in SCC Clause 39.1.

### **40. Progress Payments**

- 40.1. The Contractor may submit a request for payment for Work accomplished. Such request for payment shall be verified and certified by the Procuring Entity's Representative/Project Engineer. Except as otherwise stipulated in the SCC, materials and equipment delivered on the site but not completely put in place shall not be included for payment.
- 40.2. The Procuring Entity shall deduct the following from the certified gross amounts to be paid to the contractor as progress payment:
  - (a) Cumulative value of the work previously certified and paid for.
  - (b) Portion of the advance payment to be recouped for the month.
  - (c) Retention money in accordance with the condition of contract.
  - (d) Amount to cover third party liabilities.
  - (e) Amount to cover uncorrected discovered defects in the works.
- 40.3. Payments shall be adjusted by deducting therefrom the amounts for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Procuring Entity's Representative within twenty eight (28) days from the date each certificate was issued. No payment of interest for delayed payments and adjustments shall be made by the Procuring Entity.
- 40.4. The first progress payment may be paid by the Procuring Entity to the Contractor provided that at least twenty percent (20%) of the work has been accomplished as certified by the Procuring Entity's Representative, unless provided in the SCC.

- 40.5. Items of the Works for which a price of "0" (zero) has been entered will not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.

#### **41. Payment Certificates**

- 41.1. The Contractor shall submit to the Procuring Entity's Representative monthly statements of the estimated value of the work executed less the cumulative amount certified previously, except when a different payment scheme is adopted under GCC Clause 40.4, in which case, the statement may only be submitted in accordance the schedule prescribed the Procuring Entity.
- 41.2. The Procuring Entity's Representative shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
- 41.3. The value of Work executed shall:
- (a) be determined by the Procuring Entity's Representative;
  - (b) comprise the value of the quantities of the items in the Bill of Quantities completed; and
  - (c) include the valuations of approved variations.
- 41.4. The Procuring Entity's Representative may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

#### **42. Retention**

- 42.1. The Procuring Entity shall retain from each payment due to the Contractor an amount equal to a percentage thereof using the rate as specified in GCC Sub-Clause 42.2.
- 42.2. Progress payments are subject to retention of ten percent (10%), referred to as the "retention money." Such retention shall be based on the total amount due to the Contractor prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of Works, as determined by the Procuring Entity, are completed. If, after fifty percent (50%) completion, the Work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall again be imposed using the rate specified therefor.
- 42.3. The total "retention money" shall be due for release upon final acceptance of the Works. The Contractor may, however, request the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to the Procuring Entity, provided that the project is on schedule and is satisfactorily undertaken. Otherwise, the ten (10%) percent retention shall be made. Said irrevocable standby letters of credit, bank guarantees and/or surety bonds, to be posted in favor of the Government shall be valid for a duration to be determined by the concerned implementing office/agency or Procuring Entity and will answer for the purpose for which the ten (10%) percent retention is intended, *i.e.*, to cover uncorrected discovered defects and third party liabilities.

- 42.4. On completion of the whole Works, the Contractor may substitute retention money with an "on demand" Bank guarantee in a form acceptable to the Procuring Entity.

### 43. Variation Orders

- 43.1. Variation Orders may be issued by the Procuring Entity to cover any increase/decrease in quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignment to suit actual field conditions resulting in disparity between the preconstruction plans used for purposes of bidding and the "as staked plans" or construction drawings prepared after a joint survey by the Contractor and the Procuring Entity after award of the contract, provided that the cumulative amount of the Variation Order does not exceed ten percent (10%) of the original project cost. The addition/deletion of Works should be within the general scope of the project as bid and awarded. The scope of works shall not be reduced so as to accommodate a positive Variation Order. A Variation Order may either be in the form of a Change Order or Extra Work Order.
- 43.2. A Change Order may be issued by the Procuring Entity to cover any increase/decrease in quantities of original Work items in the contract.
- 43.3. An Extra Work Order may be issued by the Procuring Entity to cover the introduction of new work necessary for the completion, improvement or protection of the project which were not included as items of Work in the original contract, such as, where there are subsurface or latent physical conditions at the site differing materially from those indicated in the contract, or where there are duly unknown physical conditions at the site of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the Work or character provided for in the contract.
- 43.4. Any cumulative Variation Order beyond ten percent (10%) shall be subject of another contract to be bid out if the works are separable from the original contract. In exceptional cases where it is urgently necessary to complete the original scope of work, the HoPE may authorize a positive Variation Order go beyond ten percent (10%) but not more than twenty percent (20%) of the original contract price, subject to the guidelines to be determined by the GPPB: *Provided, however, That appropriate sanctions shall be imposed on the designer, consultant or official responsible for the original detailed engineering design which failed to consider the Variation Order beyond ten percent (10%).*
- 43.5. In claiming for any Variation Order, the Contractor shall, within seven (7) calendar days after such work has been commenced or after the circumstances leading to such condition(s) leading to the extra cost, and within twenty-eight (28) calendar days deliver a written communication giving full and detailed particulars of any extra cost in order that it may be investigated at that time. Failure to provide either of such notices in the time stipulated shall constitute a waiver by the contractor for any claim. The preparation and submission of Variation Orders are as follows:
- (a) If the Procuring Entity's representative/Project Engineer believes that a Change Order or Extra Work Order should be issued, he shall prepare the proposed Order accompanied with the notices submitted by the Contractor, the plans therefore, his computations as to the quantities of the additional works involved per item indicating the specific stations where such works are needed, the date of his inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work, together with his justifications for



the need of such Change Order or Extra Work Order, and shall submit the same to the HoPE for approval.

- (b) The HoPE or his duly authorized representative, upon receipt of the proposed Change Order or Extra Work Order shall immediately instruct the appropriate technical staff or office of the Procuring Entity to conduct an on-the-spot investigation to verify the need for the Work to be prosecuted and to review the proposed plan, and prices of the work involved.
- (c) The technical staff or appropriate office of the Procuring Entity shall submit a report of their findings and recommendations, together with the supporting documents, to the Head of Procuring Entity or his duly authorized representative for consideration.
- (d) The HoPE or his duly authorized representative, acting upon the recommendation of the technical staff or appropriate office, shall approve the Change Order or Extra Work Order after being satisfied that the same is justified, necessary, and in order.
- (e) The timeframe for the processing of Variation Orders from the preparation up to the approval by the Procuring Entity concerned shall not exceed thirty (30) calendar days.

#### **44. Contract Completion**

Once the project reaches an accomplishment of ninety five (95%) of the total contract amount, the Procuring Entity may create an inspectorate team to make preliminary inspection and submit a punch-list to the Contractor in preparation for the final turnover of the project. Said punch-list will contain, among others, the remaining Works, Work deficiencies for necessary corrections, and the specific duration/time to fully complete the project considering the approved remaining contract time. This, however, shall not preclude the claim of the Procuring Entity for liquidated damages.

#### **45. Suspension of Work**

- 45.1. The Procuring Entity shall have the authority to suspend the work wholly or partly by written order for such period as may be deemed necessary, due to *force majeure* or any fortuitous events or for failure on the part of the Contractor to correct bad conditions which are unsafe for workers or for the general public, to carry out valid orders given by the Procuring Entity or to perform any provisions of the contract, or due to adjustment of plans to suit field conditions as found necessary during construction. The Contractor shall immediately comply with such order to suspend the work wholly or partly.
- 45.2. The Contractor or its duly authorized representative shall have the right to suspend work operation on any or all projects/activities along the critical path of activities after fifteen (15) calendar days from date of receipt of written notice from the Contractor to the district engineer/regional director/consultant or equivalent official, as the case may be, due to the following:
  - (a) There exist right-of-way problems which prohibit the Contractor from performing work in accordance with the approved construction schedule.

- (b) Requisite construction plans which must be owner-furnished are not issued to the contractor precluding any work called for by such plans.
- (c) Peace and order conditions make it extremely dangerous, if not possible, to work. However, this condition must be certified in writing by the Philippine National Police (PNP) station which has responsibility over the affected area and confirmed by the Department of Interior and Local Government (DILG) Regional Director.
- (d) There is failure on the part of the Procuring Entity to deliver government-furnished materials and equipment as stipulated in the contract.
- (e) Delay in the payment of Contractor's claim for progress billing beyond forty-five (45) calendar days from the time the Contractor's claim has been certified to by the procuring entity's authorized representative that the documents are complete unless there are justifiable reasons thereof which shall be communicated in writing to the Contractor.

45.3. In case of total suspension, or suspension of activities along the critical path, which is not due to any fault of the Contractor, the elapsed time between the effectivity of the order suspending operation and the order to resume work shall be allowed the Contractor by adjusting the contract time accordingly.

#### **46. Payment on Termination**

- 46.1. If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Procuring Entity's Representative shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.
- 46.2. If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Procuring Entity's Representative shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.
- 46.3. The net balance due shall be paid or repaid within twenty eight (28) days from the notice of termination.
- 46.4. If the Contractor has terminated the Contract under GCC Clauses 17 or 18, the Procuring Entity shall promptly return the Performance Security to the Contractor.

#### **47. Extension of Contract Time**

- 47.1. Should the amount of additional work of any kind or other special circumstances of any kind whatsoever occur such as to fairly entitle the contractor to an extension of contract time, the Procuring Entity shall determine the amount of such extension; provided that the Procuring Entity is not bound to take into account any claim for an extension of time unless the Contractor has, prior to the expiration of the contract time and within thirty (30) calendar days after such work has been commenced or after the

circumstances leading to such claim have arisen, delivered to the Procuring Entity notices in order that it could have investigated them at that time. Failure to provide such notice shall constitute a waiver by the Contractor of any claim. Upon receipt of full and detailed particulars, the Procuring Entity shall examine the facts and extent of the delay and shall extend the contract time completing the contract work when, in the Procuring Entity's opinion, the findings of facts justify an extension.

- 47.2. No extension of contract time shall be granted the Contractor due to (a) ordinary unfavorable weather conditions and (b) inexcusable failure or negligence of Contractor to provide the required equipment, supplies or materials.
- 47.3. Extension of contract time may be granted only when the affected activities fall within the critical path of the PERT/CPM network.
- 47.4. No extension of contract time shall be granted when the reason given to support the request for extension was already considered in the determination of the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection.
- 47.5. Extension of contract time shall be granted for rainy/unworkable days considered unfavorable for the prosecution of the works at the site, based on the actual conditions obtained at the site, in excess of the number of rainy/unworkable days pre-determined by the Procuring Entity in relation to the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection, and/or for equivalent period of delay due to major calamities such as exceptionally destructive typhoons, floods and earthquakes, and epidemics, and for causes such as non-delivery on time of materials, working drawings, or written information to be furnished by the Procuring Entity, non-acquisition of permit to enter private properties or non-execution of deed of sale or donation within the right-of-way resulting in complete paralyzation of construction activities, and other meritorious causes as determined by the Procuring Entity's Representative and approved by the HoPE. Shortage of construction materials, general labor strikes, and peace and order problems that disrupt construction operations through no fault of the Contractor may be considered as additional grounds for extension of contract time provided they are publicly felt and certified by appropriate government agencies such as DTI, DOLE, DILG, and DND, among others. The written consent of bondsmen must be attached to any request of the Contractor for extension of contract time and submitted to the Procuring Entity for consideration and the validity of the Performance Security shall be correspondingly extended.

#### **48. Price Adjustment**

Except for extraordinary circumstances as determined by NEDA and approved by the GPPB, no price escalation shall be allowed. Nevertheless, in cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GoP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

#### **49. Completion**

The Contractor shall request the Procuring Entity's Representative to issue a certificate of Completion of the Works, and the Procuring Entity's Representative will do so upon deciding that the work is completed.

**50. Taking Over**

The Procuring Entity shall take over the Site and the Works within seven (7) days from the date the Procuring Entity's Representative issues a certificate of Completion.

**51. Operating and Maintenance Manuals**

- 51.1. If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.
- 51.2. If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC, or they do not receive the Procuring Entity's Representative's approval, the Procuring Entity's Representative shall withhold the amount stated in the SCC from payments due to the Contractor.

## **SECTION V**

# **SPECIAL CONDITIONS OF CONTRACT**

# Special Conditions of Contract

GCC Clause	
1.17	<p>The <b>Intended Completion Date</b> is <b>300 calendar days</b> from commencement of work, inclusive of the estimated <b>sixteen (16) calendar days</b> considered unfavorable to the prosecution of the works at site.</p> <p><b>NOTE: The contract duration shall be reckoned from the start date and not from contract effectivity date.</b></p>
1.22	<p>The <b>Procuring Entity</b> is <b>PHILIPPINE PORTS AUTHORITY</b>, PPA Building A, Bonifacio Drive, South Harbor, Port Area, Manila</p>
1.23	<p>The <b>Procuring Entity's Representative</b> is:</p> <p style="text-align: center;"><b>MARK JON S. PALOMAR</b>  Chairperson Head Office Bids and Awards Committee  for Engineering Project  3<sup>rd</sup> Floor PPA Building  Bonifacio Drive, South Harbor, Port Area, Manila</p>
1.24	<p>The <b>Site</b> is located at <b>Pandan, Catanduanes</b> and is defined in drawing Nos.</p>
1.28	<p>The <b>Start Date</b> is the time of receipt by the successful bidder of all notices called for the term of the contract.</p>
1.31	<p><b>The Works consists of:</b></p> <p><b>A. BACK-UP AREA WITH ACCESS ROAD</b></p> <ol style="list-style-type: none"> <li>1. Excavation of existing seabed (175 cu.m.)</li> <li>2. Supply and place 50-100 kg./pc. core rocks (3,092 cu.m.)</li> <li>3. Supply and place 1000 kg./pc. armour rocks (1,086 cu.m.)</li> <li>4. Supply and place 2000 kg./pc. armour rocks (3,229 cu.m.)</li> <li>5. Supply, spread and compact sand and gravel fill (3,505 cu.m.)</li> <li>6. Supply and install geotextile fabric filter (1,680 sq.m.)</li> <li>7. Supply, spread and compact selected fill (1,476 cu.m.)</li> <li>8. Supply, spread and compact aggregate base course (370 cu.m.)</li> <li>9. Construct Portland cement concrete pavement, 250mm thk. (1,903 sq.m.)</li> <li>10. Supply and place 3,500psi concrete for the stairlanding, RC curb, lamp post foundation and mooring cleat foundation (204 cu.m.)</li> <li>11. Supply and install steel reinforcement for the stairlanding, RC curb, lamp post foundation and mooring cleat foundation (12,202 kg.)</li> <li>12. Supply, deliver and install mooring cleat (905 kg.) including accessories (6 no.)</li> <li>13. Supply, fabricate and install perimeter fence using Cyclone wire mesh (3.10mm Ø x 50mm x 50mm hole) and G.I. pipes including painting (203 l.m.)</li> </ol>

	14. Supply, deliver and install 10m high steel tapered lamp post with 70 watt LED integrated solar street light lamp fixture and accessories (6 no.)
2.2	None.
5.1	The <b>Procuring Entity</b> shall give possession of all parts of the Site to the Contractor upon commencement of the project.
6.5	The Contractor shall employ the following <b>Key Personnel</b> :  a. Project Manager b. Project Engineer c. Materials Engineer d. Construction Safety and Health Officer e. Foreman f. Others
7.4 (c)	No further instructions.
7.7	No further instructions.
8.1	No further instructions.
10	None
12.3	No further instructions.
12.5	All design and build projects shall have a minimum Defects Liability Period of one (1) year after contract completion or as provided for in the contract documents. This is without prejudice, however to the liabilities imposed upon the engineer/architect who drew up the plans and specifications for a building sanctioned under Article 1723 the New Civil Code the Philippines.
13	If Contractor is a Joint Venture, "All partners to the joint ventures shall be jointly and severally liable to the Procuring Entity".
18.3(h)(i)	No further instructions.
21.2	The Arbitrator is: <i>(To be appointed)</i>
29.1	No dayworks are applicable to the contract.
31.1	The Contractor shall submit the Program of Work to the Procuring Entity's Representative within _____ days of delivery of the Notice of Award.
31.3	The period between Program of Work updates is _____ days. The amount to be withheld for late submission of an updated Program of Work is _____.
34.3	The Funding Source is the Corporate Budget of the Authority for CY 2019.
39.1	The provision on advance payments or mobilization fees in the terms and conditions of all contracts/ purchase orders/ job orders for goods, services and infrastructure projects that will be signed or executed shall henceforth be excluded.
39.5	Refer to 39.1
40.1	No further instructions.

40.4	No further instructions.
51.1	No further instructions.
51.2	<p>The date by which operating and maintenance manuals are required is _____.</p> <p>The date by which "as built" drawings are required is _____.</p>



**SECTION VI**

**TECHNICAL SPECIFICATIONS**

## ITEM 01 : EXCAVATION WORKS

### SCOPE OF WORK

#### General Provisions

1. The area shall be excavated at the *required depth* as indicated on the Drawing/s.
2. The work includes furnishing of all labor, materials, plants and equipment required to complete/finish the excavation works.

#### Work Schedules

1. After examinations of all relevant data, coordination needs, work constrains, equipment to be used and other matters, a PERT/CPM diagram showing the detailed schedule/duration and sequences for the execution of excavation work shall be submitted to the Engineer for approval within 15 days before the proposed commencement of the Works.
2. Before the commencement of excavation works, the Contractor together with the Authority's Representatives and Surveyors shall conduct a pre-joint hydrographic and topographic survey which will form basis of actual quantity of excavated materials to be removed/excavated.
3. Prior to excavation works, the Contractor shall establish visible markers to clearly define the limits of the excavation.

### EQUIPMENT/LAYOUT OF WORK

#### Plant

1. The Contractor shall keep on the job sufficient equipment/plant to meet the requirement of the project.
2. The equipment/plant shall be in satisfactorily operating conditions and capable of efficiently performing the excavation works with safety as set forth herein and shall be subject to inspection by the Engineer at all times.

#### Physical Data/Layout of Work

1. The Authority does not guarantee to keep the project excavation area free from obstructions.
2. The Contractor shall conduct the work in such manner not to disrupt the port operational activities at all times.
3. The Contractor shall layout his work from the government established ranges and gauges which shall be pointed out to him prior to commencement of the excavation work but shall be responsible for all measurements in connection therewith.
4. The Contractor shall furnish, at his own expense, survey equipment, range markers, poles, buoys, etc., and labor as may be required in laying out any part of the excavation work.
5. The Contractor shall be responsible for the installation, maintenance and preservation of all gauges, ranges, platforms, excavation limit markers. Upon completion of the work, the Contractor shall promptly remove all ranges, markers, and other marker placed by him that may be detrimental to port operation.

## EXECUTION

### EXCAVATION WORKS

#### Description

1. This item shall consist for the removal of existing seabed/fill in conformity with the dimensions shown in hydrographic and topographic survey plan or as established by the Engineer.
2. The excavated suitable materials shall be used if proven to pass the requirements as backfilling materials.
3. The excavated good materials shall be stockpiled within the project site to be designated by the Engineer. The good materials shall be used for backfilling as directed by the Engineer.

#### Progress of Work

1. Upon mobilizing sufficient labors, materials, plants and equipment, the Contractor shall works at such hours as may be necessary, subject to existing laws, to ensure the prosecution of work in accordance with the approved schedule (PERT/CPM). If the Contractor falls behind the approved excavation schedule, the Engineer may require the Contractor to increase the number of shifts and/or equipment without extra cost to the Authority.
2. Failure of the Contractor to comply with the requirements shall be reasonable grounds to assume that the Contractor is not performing the excavation work with such diligence as will insure completion within the specified time, in which case, the Engineer may be compelled to take steps to protect the interest of the PPA.
3. When the Contractor elects to work overtime and on Sundays and legal holidays, appropriate authority from those concern must be secured and notice of his intention to do so shall be submitted to the Engineer within the reasonable time in advance thereof.
4. The Contractor shall *submit daily excavation reports in duplicate* within two (2) days after the end of the day covered by the report duly signed by the Contractor or his duly authorized representative and the Engineer. The report shall be made in forms and to be provided by the Authority.
5. The Contractor shall take necessary measures to protect the life and health of his men in accordance with the existing laws and regulations of the Government. The Contractor shall provide safety devices to Engineer and personnel while on board the equipment/plant in performance of their official duties.
6. The Contractor shall put up and maintain such markers and buoys as will prevent any accident in consequence of his excavation work. No liability whatsoever attaches to the Authority, if as a result of the operations or installation, an accident happens in the project area. The Contractor shall hold the Authority free and harmless against any or all claims of persons involve in such accidents.

### EXCAVATED MATERIALS

1. Stockpiling and usage of excavated materials from existing backfill shall be approved by the Engineer in coordination with the Agency.

### Displace Materials

1. Should the Contractor, during the progress of the excavation works, lose, dump, throw overboard, sink, misplace any materials, plant, machinery or appliance which may be dangerous to or obstruct navigation and/or port operations activities, the Contractor shall immediately give notice with description and location of such obstruction to the Authority and when required, shall mark the obstruction until such time the same is removed.
2. Should the Contractor refuse, neglect or delay compliance with the above requirements, such obstructions shall be removed by the Authority and the cost of its removal shall be deducted from any money due or to become due to the Contractor or proceeded against his performance bond.
3. Any excavated materials that is deposited other than the designated area will not be paid and the Contractor shall be required to remove such misplaced materials and deposit it to where directed at his expense.

### INSPECTION

1. No PPA Project Engineer or Authority's Representative is authorized to change any provisions of the excavation specifications without written authorization of the Authority.
2. Nor shall the presence or absence of a PPA project Engineer or Authority's Representative relieve the Contractor from any of his responsibility under the Contract.

### PAY LIMITS

It is to be clearly understood that no payments will be made for excavation beyond the excavation limits. The Contractor shall bear all the cost of over excavation beyond the project depth and in addition, of any remedial measures ordered by the Authority or its representative to be taken in areas over excavation is not permitted.

### SOUNDINGS

1. The Contractor, in the presence or joint with the Authority's Representative and during the progress of the excavation works, shall perform continuous checking of the depth thru soundings.
2. For the purpose of work progress payments; the Contractor, jointly with the Authority's Representative and/or Surveyors, shall conduct soundings on areas subjected to excavation activities during the month or the preceding period for which payment is being claimed.
3. The Contractor will be responsible for all costs involved in the above mentioned such as costs for the survey equipment, measurement, markings, materials and other cost related thereto.

## ITEM 02 : ROCKWORKS

### SCOPE OF WORK

The work includes the furnishing of all labor, materials and equipment required for the rock works including armour rocks, underlayer and rock fill in accordance with the Specifications and as indicated in the drawings or as directed by the Engineer.

### SETTING OUT OF WORKS

#### 1. Topographic/Hydrographic Survey

Prior to commencement of Works, the Contractor together with the Engineer shall conduct topographic and hydrographic surveys in order to establish the actual field condition or bathymetry of the project site. The said survey shall be used as the basis of quantity measurement.

#### 2. The Contractor shall set out the Works and shall solely be responsible for the accuracy of such undertaking. Visible construction markers shall be used to clearly define horizontal limits prior to placing of any material.

### MATERIAL REQUIREMENTS

1. All rocks to be used shall be angular, hard, durable and not likely to disintegrate in seawater. Rock layers to be installed should more or less be "global in shape", "angular in surface" and should avoid "river run rocks". Rocks that are sub-angular may be subject to the approval of the Engineer. Rounded or well rounded pieces will not be accepted.
2. All rocks shall have a minimum unit weight of 2,650 kg per cubic meter (specific gravity 2.65) of solid materials when measured dry.
3. Rocks with specific gravity higher than the above specified is preferable and will readily be accepted. But no adjustment (increase) in the contract price will be made on this account.
4. Rocks of the primary cover layer shall be sound, durable and hard. It shall be free from laminations, weak cleavages, and undesirable weathering, and shall be of such character that it will not disintegrate from the action of the air, seawater, or in handling and placing. All stone shall be angular quarry stone.
5. All rocks shall conform to the following test designations:

Apparent specific gravity	ASTM C 127
Abrasion	ASTM C 535

### EXECUTION

#### QUARRY SITE AND ROCK QUANTITY

1. It is the Contractor's responsibility to make necessary surveys / investigations on quarry sites applicable to the Works, taking into consideration the nature of the rock works required under the Contract such as required quality, total quantity and daily required quantity, transportation method and route etc.,
2. The Contractor shall submit data on characteristics of proposed quarry sites together with the location of sites, test results of their products and samples for the approval of the Engineer.

3. When the Contractor intends to operate a quarry for the Works, the Contractor shall take all the responsibilities in connection with its operation including, but not limited to, obtaining all necessary permits and approvals, payment of safety measures or like (if any), provisions and maintenance of safety measures and temporary access roads, all of private and public roads and temporary jetties to be used to transport quarried materials and the compliance with all regulations etc. required by the authorities having jurisdiction over any part of the operation.

Should any explosive be used in the quarry operations, the Contractor shall be responsible to meet laws and regulations, wherever applicable, established by the Local Government and Central Government Department concerned.

4. Despite the Engineer's previous approval of the natural rock and borrow pits, the Engineer reserves the right to suspend any operation in connection with the rock, if, in its opinion, such rock is not suitable for the work. In such case, the Contractor shall comply with the Engineer's instructions.
5. The finish bulkhead shall be true to grade and section. The spaces/voids between rocks shall be filled/sealed with 2 kg. to 16 kg. rocks and shall be approved by the Engineer before placing geotextile filter thereon to prevent the filling materials (soil and sand) from escaping to cause scouring and settlement of finished surface.

#### STORAGE OF MATERIALS

Quarried rock materials shall be stored by weight/class or in a manner approved by the Engineer and in a yard kept clean, free from undesirable materials.

#### SAMPLING TEST

1. Thirty (30) days prior to commencement of rock works, samples and test results of rock material which conforms to the Specifications called for in the Contract shall be submitted to the Engineer for evaluation and approval.
2. Rock samples from different sources and of different classes shall also be submitted, together with test results and its corresponding certificates, for the Engineer's approval.
3. Rocks accepted at the quarries before shipments or at the site before placement shall not be used as a waiver. The Engineer has the right to reject any inferior rock quality.
4. Samples for each class of approved materials are to be kept in the field for comparison/checking of delivered rock materials. A test shall be required for every 1,500 cu.m.

#### CROSS-SECTIONS OF COMPLETED ROCKWORK

Cross-sections showing the elevations of the completed rock works and the terrain of the existing seabed prior to construction shall go together with every progress report and request for progress or final payment.

Rock works which was previously paid should be easily identified from sections being requested for payment.

**ITEM 03 : RECLAMATION AND FILL**

**SCOPE OF WORK**

This item shall consist of the construction of back-up area in accordance with the Specifications and in conformity with the lines, grades, and dimensions shown on the Plans or established by the Engineer.

The area to be upgraded shall be as indicated on the Drawings.

The works includes furnishing of all labor, materials and equipment required to complete/finish the upgrading of the area in accordance with the Drawings and the Specifications.

The following major items of works are included:

1. Supply and fill of suitable materials to places required to upgrade elevation of areas as shown in the drawings.
  - a. Compaction of fill materials
  - b. Supply and placing of filter fabric
2. The work may also include the construction of temporary dike or structure to enclose the reclamation material before the completion of a permanent waterfront containment structure.

**MATERIAL REQUIREMENTS**

1. Filling Materials

a. General

All sources of filling materials shall be approved by the Engineer.

Appropriate quantities of sample of all materials to be used in the Works shall be submitted for acceptance and approval by the Engineer thirty (30) days before the commencement of work.

General filling shall consist of approved material from approved sources of suitable grading obtained from excavation, quarries or borrow pits, without excess fines, clay or silt, free from vegetation and organic matter.

Sample of approved materials shall be kept/stored in the field for ready reference/comparison of the delivered materials.

The Contractor shall ensure that adequate quantities of required materials that comply with the specifications and quality approved by the engineer are available at all times.

b. Fill Materials other than Dredged/Excavated Materials

Fill materials for reclamation purposes other than dredged materials shall be pit sand, quarry run, gravel or mine tailings. The fill material shall be of the same quality or better as approved by the Engineer.

**c. Type of Filling Materials**

**c.1 Selected Fill Materials**

All materials used for fill shall be free of rock boulders, wood, scrap materials, organic matters and refuse.

The material shall not have high organic content and shall meet the following requirements:

- i. Not more than 10 percent by weight shall pass the No. 200 sieve (75 microns).
- ii. Maximum particles size shall not exceed 75 mm.
- iii. The fill materials shall be capable of being compacted in the manner and to the density of not less than 95%.
- iv. The material shall have a plasticity index of not more than 6 as determined by AASHTO T 90.
- v. The material shall have a soaked CBR value of not less than 25% as determined by AASHTO T 193.

**c.2 Sand and Gravel Fill**

The materials shall be composed of at least 50% sand and 50% gravel in terms of volume and shall be free from rock boulders, wood, scrap, vegetables, and refuse. The materials shall not have organic content and the maximum particle size shall not exceed 100mm diameter. Source of materials shall be river or mountain quarry or manufactured.

**c.3 Excavated Materials**

The excavated materials shall be used for backfilling as directed by the Engineer.

**EXECUTION**

**Reclamation and Fill**

**a. General**

The Contractor shall be responsible for all ancillary earthworks that are necessary for the reception of the fill material and including, all spout handling, temporary dike or shoring construction where necessary, temporary protection to dikes in the sea and drainage of excess water.

The arrangements of these ancillary earthworks shall be laid out in consultation with the Engineer and to the Engineer's satisfaction and care shall be taken to minimize the loss of fill.

- b. Replacement, backfilling and reclamation may be done by any method acceptable to the Engineer. Prior to start of Work, the Contractor shall submit his method and sequence of performing the works to the Engineer for approval. However, the Engineer's approval of the method and sequence of construction shall not release the Contractor from the responsibility for the adequacy of labor and equipment.
- c. The Engineer shall approve the type of material to be used as fill prior to its placement. If the material is rejected, such material shall be deposited into areas designated or as directed by the Engineer.



- d. Reclamation of fill material shall be placed in horizontal layers not exceeding 200mm (8 inches), loose measurement, and shall be compacted as specified before the next layer is placed. Effective spreading equipment shall be used on each lift to obtain uniform thickness prior to compacting. As the compaction of each layer progresses, continuous leveling and manipulating will be required to assure uniform density. Water shall be added or removed, if necessary, in order to obtain the required density. Removal of water shall be accomplished through aeration by plowing, blading, dicing, or other methods satisfactory to the Engineer.

Dumping and rolling areas shall be kept separate, and no lift shall be covered by another until the necessary compaction is obtained.

Hauling and leveling equipment shall be so routed and distributed over each layer of the fill in such a manner as to make use of compaction effort afforded thereby and to minimize rutting and uneven compaction.

## **TRIAL SECTION**

Before finish grade construction is started, the Contractor shall spread and compact trial sections as directed by the Engineer. The purpose of the trial sections is to check the suitability of the materials and the efficiency of the equipment and construction method which is proposed to be used by the Contractor. Therefore, the Contractor must use the same material, equipment and procedures that he proposes to use for the main work. One trial section of about 500 m<sup>2</sup> shall be made for every type of material and/or construction equipment/procedure proposed for use.

After final compaction of each trial section, the Contractor shall carry out such field density tests and other tests required as directed by the Engineer.

If a trial section shows that the proposed materials, equipment or procedures in the Engineer's opinion are not suitable for sub-base, the material shall be removed at the Contractor's expense, and a new trial section shall be constructed.

If the basic conditions regarding the type of material or procedure change during the execution of the work, new trial sections shall be constructed.

## **CROSS-SECTIONS OF COMPLETED RECLAMATION**

Cross-sections showing the elevations of the completed reclamation and the terrain of the existing seabed prior to construction shall go together with every progress report and request for progress or final payment.

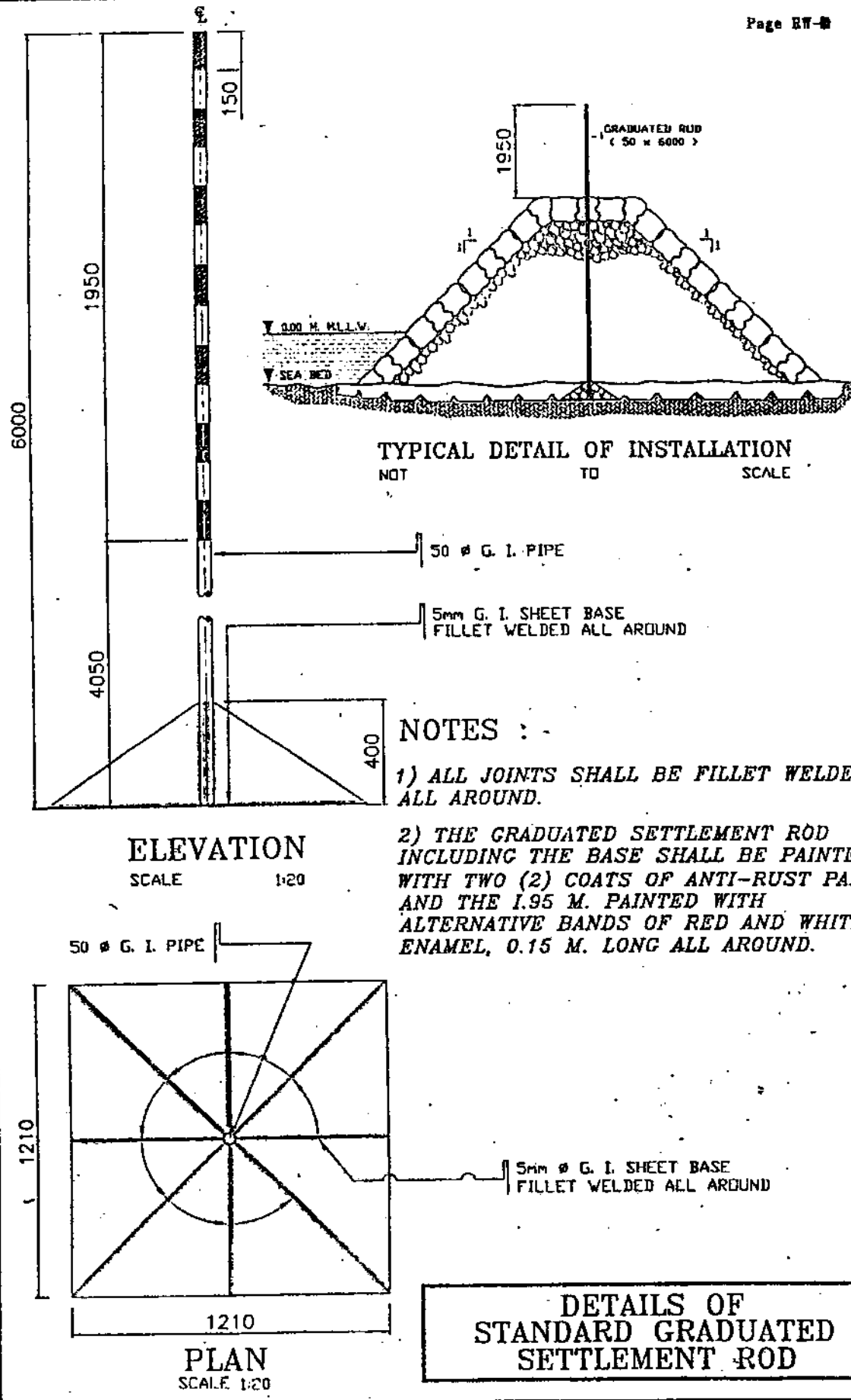
## **FIELD COMPACTION TEST**

Field Density tests to determine the percent of compaction of the material (selected fill, aggregate base course, etc) shall be conducted. Compaction of each layer thereafter shall continue until a field density of 95 percent of the maximum dry density in accordance with AASHTO T/180 Method D has been achieved. In place density determination shall be made in accordance with AASHTO T191/ ASTM D 1556.

## **TOLERANCE**

Elevation : plus 5 cm.

Page BW-8



## ITEM 04 : GEOTEXTILE FABRIC

### SCOPE OF WORK

This work covers all the following requirements regarding the installation of geotextile (filter fabric) in accordance with the lines, grades, and dimensions shown in the drawings.

### MATERIAL REQUIREMENTS

The geotextile fabric shall meet the following requirements in full. If required, a sample of 1.0 sq.m. shall be supplied to the Engineer for approval and retention for purposes of comparative testing against materials randomly sampled from the site.

#### 1. PHYSICAL PROPERTIES

- a. The geotextile material shall be a nonwoven needle punched type comprising of needle punched polypropylene fibers or its equivalent.
- b. The geotextile material shall be UV stabilized to ensure retention of minimum 70% original tensile strength after 90 days exposure to sunlight. The manufacturer shall submit test results to the Engineer for approval.
- c. The geotextile must be highly resistant to long term contact with damp cementitious substances or acid or alkali solutions in the pH range 2-13. The manufacturer shall submit test data to ensure resistance of the polymer.

#### 2. MECHANICAL AND HYDRAULIC PROPERTIES

The geotextile supplier is required to certify that the materials delivered to site will be proven to meet or exceed the following properties:

TECHNICAL PROPERTIES	UNIT	MINIMUM	TEST STANDARD
<b>A. Physical Characteristics:</b>			
Minimum Mass (per unit area)	(g/m <sup>2</sup> )	540	ASTM D5261
Thickness (F=2 kpa)	mm	4.5	ASTM D5199
<b>B. Mechanical Properties:</b>			
Tensile Strength (md/cd)	kN/m	13/22	ASTM D4595
Tensile elongation (md/cd)	%	90/40	ASTM D4595
CBR Puncture Resistance	N	3000	ASTM D6241
<b>C. Hydraulic Properties:</b>			
Effective Opening Size (O <sub>90</sub> Wet Sieving)	(mm)	0.08	ASTM D4751
Water Permeability: Permittivity	(s <sup>-1</sup> )	0.5	ASTM D4491

*Note:*

Tolerances:

Mechanical Properties	-1.0% of the Minimum Value
Hydraulic Properties	-1.0% of the Minimum Value

## EXECUTION

1. The geotextile shall be delivered to site with an outer wrapper to protect it from exposure to the elements.
2. Prior to laying of geotextile filter, stone filler shall be placed between gaps or voids of armour / core rocks as likewise mentioned in the requirements of Item "Rock Works".
3. The non-woven geotextile filter shall be installed and lay manually at site as per design drawings. The filter shall be laid lengthwise down slopes and appropriately anchored along the top edge.
4. The Engineer reserves the right to sample geotextile delivered to site for individual quality control testing at the contractor's expense. A material not meeting the manufacturer's certified values will be rejected from the site.
5. The geotextile shall be proven to resist dynamic puncture damage when subject to impact stress from stone armour (200-400 kg.) dropped from a minimum height of 2.0 m. and should be laid on at least 1-foot sand and gravel bedding. Geotextile failing to resist puncture shall not be accepted.
6. To facilitate site Quality Assurance, each roll of geotextile delivered to site shall be clearly labeled with brand name, grade, and production batch number.
7. Geotextile overlaps shall be at least 1.0 m unless otherwise stated on the drawings. Alternatively, geotextile overlaps are to be heat-welded or sewn using appropriate polypropylene or other synthetic thread and portable hand sewing equipment.

## ITEM 05 : AGGREGATE BASE COURSE

### SCOPE OF WORK

This Item shall consist of furnishing, placing and compacting an aggregate base course on a prepared subgrade/subbase in accordance with this Specification and lines, grades, thickness and typical cross-sections shown on the Plans or as established by the Engineer.

### MATERIAL REQUIREMENTS

Aggregate base course shall consist of hard, durable particles or fragments of crushed stone, crushed slag or crushed or natural gravel and filler of natural or crushed sand or other finely divided mineral matter. The composite material shall be free from vegetable matters and lumps or balls of clay, and shall be of such nature that it can be compacted readily to form a firm, stable base.

In some areas where the conventional base course materials are scarce or non-available, the use of 40% weathered limestone blended with 60% crushed stones or gravel shall be allowed, provided that the blended materials meet the requirements of this Item.

The base material shall conform to the grading requirements of Table 3.1, whichever is called for in the Bill of Quantities.

**Table 3.1 Grading Requirements**

Sieve Designation		Mass Percent Passing	
Standard mm	Alternate US Standard	Grading A	Grading B
50	2"	100	
37.5	1 - 1/2"	-	100
25.0	1"	60 - 85	-
19.0	3/4"	-	60 - 85
12.5	1/2"	35 - 65	-
4.75	No. 4	20 - 50	30 - 55
0.425	No. 40	5 - 20	8 - 25
0.075	No. 200	0 - 12	2 - 14

The portion of the material passing the 0.075mm (No. 200) sieve shall not be greater than 0.66 (two-thirds) of the fraction passing the 0.425mm (No. 40) sieve.

The portion of the material passing the 0.425mm (No. 40) sieve shall have a liquid limit of not greater than 25 and a plasticity index of not more than 6 as determined by AASHTO T89 and T90, respectively.

The coarse aggregate retained on a 2.00mm (No. 10) sieve shall have a mass percent of wear not exceeding 50 by the Los Angeles Abrasion Test as determined by AASHTO T 96.

The material passing the 19mm (3/4 inch) sieve shall have a minimum soaked CBR-value of 80% tested according to AASHTO T 193. The CBR-value shall be obtained at the maximum dry density determined according to AASHTO T 180, Method D.

If filler, in addition to that naturally present, is necessary for meeting the grading requirements or for satisfactory bonding, it shall be uniformly blended with the crushed base course material on the road or in a pugmill unless otherwise specified or approved. Filler shall be obtained from sources approved by the Engineer, free from hard lumps and shall not contain more than 15 percent of material retained on the 4.75mm (NO. 4) sieve.

## **EXECUTION**

### **PLACING**

The aggregate base material shall be placed at a uniform mixture on a prepared sub-base (selected fill) in a quantity which will provide the required compacted thickness. When more than one layer is required, each layer shall be shaped and compacted before the succeeding layer is placed.

The placing of material shall begin at the point designated by the Engineer. Placing shall be from vehicles especially equipped to distribute the material in a continuous uniform layer or windrow.

The layer or windrow shall be of such size that when spread and compacted the finished layer be in reasonably close conformity to the nominal thickness shown on the Plans.

When hauling is done over previously placed material, hauling equipment shall be dispersed uniformly over the entire surface of the previously constructed layer, to minimize rutting or uneven compaction.

### **SPREADING AND COMPACTING**

When uniformly mixed, the mixture shall be spread to the plan thickness, for compaction.

Where the required thickness is 150mm or less, the material may be spread and compacted in one layer. Where the required thickness is more than 150 mm, the aggregate base shall be spread and compacted in two or more layers of approximately equal thickness, and the maximum compacted thickness of any layer shall not exceed 150 mm. All subsequent layers shall be spread and compacted in a similar manner.

The moisture content of sub-base material shall, if necessary, be adjusted prior to compaction by watering with approved sprinklers mounted on trucks or by drying out, as required in order to obtain the required compaction.

Immediately following final spreading and smoothening, each layer shall be compacted to the full width by means of approved compaction equipment. Rolling shall progress gradually from the sides to the center, parallel to the centerline of the road and shall continue until the whole surface has been rolled. Any irregularities or depressions that develop shall be corrected by loosening the material at these places and adding or removing material until surface is smooth and uniform. Along curbs, headers, and walls, and at all places not accessible to the roller, the base material shall be compacted thoroughly with approved tampers or compactors.

If the layer of base material, or part thereof, does not conform to the required finish, the Contractor shall, at his own expense, make the necessary corrections.

Compaction of each layer shall continue until a field density of at least 100 percent of the maximum dry density determined in accordance with AASHTO T 180, Method D has been achieved. In-place density determination shall be made in accordance with AASHTO T 191/ASTM D 1556.

## TRIAL SECTION

Before finish grade construction is started, the Contractor shall spread and compact trial sections as directed by the Engineer. The purpose of the trial sections is to check the suitability of the materials and the efficiency of the equipment and construction method which is proposed to be used by the Contractor. Therefore, the Contractor must use the same material, equipment and procedures that he proposes to use for the main work. One trial section of about 500 m<sup>2</sup> shall be made for every type of material and/or construction equipment/procedure proposed for use.

After final compaction of each trial section, the Contractor shall carry out such field density tests and other tests required as directed by the Engineer.

If a trial section shows that the proposed materials, equipment or procedures in the Engineer's opinion are not suitable for subbase, the material shall be removed at the Contractor's expense, and a new trial section shall be constructed.

If the basic conditions regarding the type of material or procedure change during the execution of the work, new trial sections shall be constructed.

## SURVEYS AND SETTING OUT WORKS

Before the commencement of the pavement works, the Contractor together with the Engineer shall conduct topographic survey which will form the basis of quantity measurement.

The Contractor shall set out the works and shall be solely responsible for the accuracy of such setting-out.

Prior to placement of any material, the Contractor shall establish visible construction markers to clearly define horizontal limits of the Work.

## TOLERANCES

The aggregate base course shall be laid to the designed level and transverse slopes shown on the Plans. The allowable tolerances shall be in accordance with following:

Permitted variation from design THICKNESS OF LAYER	± 10 mm
Permitted variation from design LEVEL OF SURFACE	+ 5 mm -10 mm
Permitted SURFACE IRREGULARITY Measured by 3-m straight-edge	5 mm
Permitted variation from design CROSSFALL OR CAMBER	± 0.2%
Permitted variation from design LONGITUDINAL GRADE over 25 m in length	± 0.1%

## ITEM 06 : PORTLAND CEMENT CONCRETE PAVEMENT

### **SCOPE OF WORK**

The works include the furnishing of all labor, materials and equipment required for the construction of gravel base course and concrete pavement. The works shall be in accordance with the lines and grades shown on the Drawings and in conformity with the Specifications.

### **MATERIAL REQUIREMENTS**

#### **Cement**

Portland cement shall conform to the requirements of the Section "Reinforced Concrete".

#### **Fine Aggregate**

The fine aggregate shall be well-graded from coarse to fine and shall conform to the requirements of the Section "Reinforced Concrete".

#### **Coarse Aggregate**

Coarse aggregate shall conform to the requirements of the Section "Reinforced Concrete".

#### **Water**

Clean, fresh, potable water shall be used for the mixing of all concrete and mortar and shall be from a source approved by the Engineer. Sea water or brackish water shall not be used.

#### **Admixture**

Admixture shall only be used with the written permission of the Engineer. If air-entraining agents, water reducing agents, set retarders or strength accelerators are permitted to be used, they shall not be used in greater dosages than those recommended by the manufacturer, or as permitted by the Engineer. The cost shall be considered as already in the Contractor's unit cost bid for concrete.

### **TIE BARS AND SLIP BARS**

Tie bars shall be deformed bars conforming to the requirements specified in AASHTO M 31 or M 42, except that rail steel shall not be used for tie bars that are to be bent and re-straightened during construction, sizes as indicated on the Drawings. The deformed bars shall be Grade 40 and shall be shipped in standard bundles, tagged and marked in accordance with the Code of Standard practice of the Concrete Reinforcement Steel Institute.

Slip bars shall be smooth round steel bars conforming to the requirements specified in AASHTO M 31 or plain M 42.

#### **Joint Filler**

Poured filler for joint shall conform to the requirements of AASHTO M173.



## **EXECUTION**

### **Concrete Class**

The concrete for pavement shall satisfy the following requirements:

Minimum 28-day comprehensive strength	:	24 MPa
Minimum Flexural Strength	:	3.8 MPa
Maximum Aggregate size	:	25 mm
Maximum water cement ratio	:	0.52

### **Proportioning, Consistency and Mixing of Concrete**

The proportioning, consistency and mixing of concrete shall conform to the requirements of the Section "Reinforced Concrete".

### **Preparation**

The base shall be watered and thoroughly moistened prior to placing of the concrete.

### **Formwork Construction**

Formwork shall comply with the requirements of the Section "Reinforced Concrete". Forms shall be of steel, of an approved section and shall be straight and of a depth equal to thickness of the pavement at the edge. The base of the forms shall be of sufficient width to provide necessary stability in all directions. The flange braces must extend outward on the base not less than 2/3 the height of the form.

All forms shall be rigidly supported on a bed of thoroughly compacted material during the entire operation of placing and finishing the concrete. They shall be set with their faces vertical so as to produce a surface complying with the required tolerance.

Adjacent lanes may be used in lieu of forms for supporting finishing equipment provided that proper protection is afforded to the concrete of the adjacent lanes to prevent damage, and provided further that the surface of the concrete carrying the finishing equipment does not vary by more than 3mm in each meter length. Adjacent lanes in lieu of forms may not be used until the concrete is at least seven (7) days old. Flanged wheels of the finishing equipment shall not be operated on the concrete surface. The inside edge of supporting wheels of the finishing machine shall not operate closer than 100mm from the edge of the concrete lane.

Alternative to placing forms, slip-forming may be used. Slip-form paving equipment shall be equipped with the traveling side forms of sufficient dimensions, shape and strength to support the concrete laterally for a sufficient length of time during placement to produce pavement of the required cross section. No abrupt changes in longitudinal alignment of the pavement will be permitted. The horizontal deviation shall not exceed 20mm from the proper alignment established by the Engineer.

### **Joints**

All joints, longitudinal, transverse, etc., shall be constructed as shown on the Drawings and shall be clean and free of all foreign material after completion of shoulder work prior to acceptance of the work and in accordance with the following provisions:

### *Longitudinal and Transverse Contact Joints:*

Longitudinal contact joints are joints formed between lanes that are poured separately. Transverse contact joints are joints formed between segments of a lane that are poured separately. Transverse contact joints shall be formed perpendicular to pavement centerline at the end of each day of concrete placing, or where concreting has been stopped for 30 minutes or longer but not nearer than 1.5 meters from sawed contraction joints. All contact joints shall have faces perpendicular to the surface of the pavement. Tie bars of the size, length and spacing shown on the Drawings shall be placed across longitudinal and transverse contact joints.

### **Placing Concrete**

The concrete shall be deposited and spread in order that segregation will not occur and place a uniform layer of concrete whose thickness is approximately 20 mm greater than that required for the finished pavement is placed. Rakes shall not be used for handling concrete.

In order to prevent the introduction into the concrete of earth and other foreign materials, the men whose duties require them to work in the concrete, shall in general, confine their movements to the area already covered with fresh concrete. Whenever it becomes necessary for these men to step out of the concrete, their footwear shall be washed or otherwise thoroughly cleaned before returning to the concrete. Repeated carelessness with regard to this detail will be deemed sufficient cause for removing and replacing such worker.

During the operation of striking off the concrete, a uniform ridge of concrete at least 70 mm in height shall be maintained ahead of the strike-off screed for its entire length. Except when making a construction joint, the finishing machine shall at no time be operated beyond that point where this surplus can be maintained in front of the strike-off screed.

After the first operation of the finishing machine, additional concrete shall be added to all low places and honeycombed spots and the concrete rescreeded. In any rescreeding, a uniform head of concrete shall be maintained ahead of the strike-off for its entire length. Honeycombed spots shall not be eliminated by tamping or grouting.

Workers on the job shall have mobile footbridges at their disposal so that they need not walk on the wet concrete.

In conjunction with the placing and spreading, the concrete shall be thoroughly spaded and vibrated along the forms, bulkhead, and joints.

The internal vibrators shall be of pneumatic, gas-driven, or electric type, and shall operate at a frequency of not less than 3,200 pulsations per minute.

Whenever the placing of the concrete is stopped or suspended for any reason, for a period of 30 minutes or longer, a suitable bulkhead shall be placed so as to produce a vertical transverse joint. If an emergency stop occurs within 2.5 meters of the contraction or an expansion joint the concrete shall be removed back to the joint. When the placing of the concrete is resumed, the bulkhead shall be removed and a new concrete placed and vibrated evenly and solidly against the face of previously deposited concrete. Any concrete in excess of the amount needed to complete a given section or that has been deposited outside the forms shall not be used in the work.

The Contractor shall provide suitable equipment for protecting the fresh concrete in case of rain, such as screens which will cause the rain water to run off beyond the edges of the paving, rain proof tarpaulins or other methods approved by the Engineer. The equipment shall be sufficient to shelter from rain all areas equal to that paved in two hours of work.

## Finishing Concrete

The concrete shall be compacted and finished by a mechanical, self-propelled finishing machine of approved type, having two independently operated screeds. If a machine possessing only one screed is approved, the screed will not be less than 450 mm wide and shall be equipped with compensating springs to minimize the effect of the momentum of the screed on the side forms. The number of driving wheels, the weight of the machine and the power of the motor shall be so coordinated as to prevent slippage. The top of the forms and the surface of the finishing machine wheels shall be kept free from concrete or dirt.

The machine shall at all times be in first-class mechanical condition and shall be capable of compacting and finishing the concrete as herein described. Any machine which causes displacement of the side forms from the line or grade to which they have been properly set, or causes undue delay due to mechanical difficulties, shall be removed from the work and replaced by a machine meeting the Specifications.

The finishing machine shall be operated over each section of pavement two or more times and at such intervals as will produce the desired results. Generally, two passes of the finishing machine are considered the maximum desirable.

The concrete shall be vibrated, compacted, and finished by a vibratory finishing machine. The vibratory machine shall meet the requirements for ordinary finishing, and shall be one of the following type:

1. The machine shall have two independently operated screeds; the front screed shall be equipped with vibratory units with a frequency of not less than 3,500 pulsations per minute. There shall be not less than one vibratory unit for each 2.5 meters length or portion thereof, of vibratory screed surface. The front screed shall not be less than 300mm wide and shall be equipped with a "bull nose" front edge built on a radius of not less than 50mm. This type of vibratory finishing machine shall be operated in such manner that each section of pavement will receive at least one vibratory pass, but not more than two passes, unless otherwise directed, or ;
2. The machine shall be equipped with an independently operated vibratory "pan" (or pans) and two (2) independently operated screeds, the "pan" shall be mounted in a manner that will permit it to come in contact with the forms and will permit vibration of the full width of lane simultaneously.

There shall be not less than one vibratory unit for each 2 m. length or portion thereof, of vibrating pan surface. The vibratory units in any individual pan shall be synchronized and have a frequency of not less than 3,500 pulsations per minute. The front screed shall be capable of operating in a position that will strike off the concrete at a sufficient height above the top of the forms to allow for proper compaction with the vibrating pan. This type of vibratory finishing machine shall be operated in such manner that each section of pavement will receive at least one vibratory pass but not more than two passes, unless otherwise directed.

After the final pass of the finishing machine and when the concrete has started to dry, the surface of the pavement shall be finished with an approved longitudinal float. The float may be operated either manually or by mechanical means. The float may be either of wood or metal shall be straight and smooth and light in weight so as not to displace or sink into the concrete surface.

To be effective, the float shall be at least 300mm wide and 3m long. When manually operated, the float shall be moved from edge to edge with a wiping motion and advance one (1) meter or more.

The succeeding trip shall overlap the previous trip. A light smoothing lute at least 3 meters long may be used provided approved by the Engineer.

The surface of the pavement shall be tested by the Contractor, before the final belting, with an approved standard straightedge 3 meter in length. Irregularities so detected shall be corrected immediately. Special attention shall be given to the concrete adjacent to transverse joints to insure that the edges thereof are not above the grade specified or the adjacent concrete below grade. All depressions or projections shall be corrected before any initial set has developed in the concrete.

After the concrete has been brought to the required grade, contour and smoothness, it shall be finished by passing over the concrete a drag of one or two burlap clothes, which give the surface the required roughness. The vehicles used to carry these cloths may be independent of the concrete-laying machine or may be incorporated with it and may be operated either by hand or mechanically.

Hand finishing will be permitted only on variable width sections of the pavement and other places where the use of the finishing machine would be impractical. Hand finishing shall be accomplished by means of the hand-operated strike-off template of either steel or steel-shod wood construction. The striking template shall be operated forward with a combined longitudinal and transverse motion and shall be so manipulated that neither end will be raised off the side forms. A similar tamper shall be used for tamping the concrete.

As soon as the concrete has attained its initial set, the edges of the pavement, the longitudinal joints, the construction dummy and expansion joints not sawn shall be carefully finished with an edging tool having radius of at least 5mm. The tools, the special accessories for cutting impressed joints and methods of workmanship shall be such as will produce a joint whose edges are of the same quality of concrete as the other portion of the pavement. Methods and workmanship which make use of excess mortar or grout in this area shall be eliminated. Unnecessary tool marks shall be eliminated during work, and the edges left smooth and true to line.

### Striking Forms

Forms shall remain in place at least 12 hours after the concrete has been placed. When working conditions are such that the early strength gain of the concrete is delayed, the forms shall remain in place for a longer period, as directed by the Engineer. Bars or heavy load shall not be used against the concrete when still in the forms. Any damage to concrete resulting from form removal shall be repaired promptly by the Contractor as directed by the Engineer without any additional payment to the Contractor.

### Curing Concrete

Unless otherwise ordered by the Engineer, curing of concrete shall be done by any method specified in the Section "Reinforced Concrete".

### Cleaning and Sealing Joints

After completion of the required curing and before opening of the pavement to traffic, all joints shall be thoroughly cleaned of all concrete aggregate fragments or other materials.

After removal of side forms, the ends at transverse expansion joints at the edges of the pavement shall be carefully cleaned of any concrete within the expansion spaces for the entire depth of slab, care being taken not to injure the ends of the joints. Expansion and contraction joints shall then be poured with a hot joint sealer to the depth as indicated on the