

**PROCUREMENT OF THE
2016 GSIS
PROPERTY & ENGINEERING
COMBINED RISK AND CATASTROPHE
EXCESS OF LOSS TREATY**

01 January 2016 to
31 December 2016

Government Service Insurance System

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Section I. Invitation to Bid

FOR THE 2016 GSIS PROPERTY AND ENGINEERING COMBINED RISK AND CATASTROPHE EXCESS OF LOSS TREATY

The *Government Service Insurance System (GSIS)*, through the *GSIS Corporate Budget for CY 2015* wishes to receive bids for the **2016 GSIS PROPERTY AND ENGINEERING COMBINED RISK AND CATASTROPHE EXCESS OF LOSS TREATY** for the period 01 January 2016 to 31 December 2016, with an Approved Budget for the Contract of Four Hundred Million Thirty One Thousand Two Hundred Forty Pesos (Php400,031,240.00) representing 100% Gross Premium. Bids received in excess of the ABC shall be automatically rejected at bid opening.

Bidders should have completed, within *two years* from the date of submission and receipt of bids, 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 a non-discretionary “pass/fail” criterion as specified in the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184, otherwise known as the “Government Procurement Reform Act”.

Bidding is open to all interested bidders, whether local or foreign, subject to the conditions for eligibility provided in the IRR of RA 9184.

Interested bidders may obtain further information and inspect the Bidding Documents at the GSIS Insurance Bids and Awards Committee (GIBAC) Secretariat, Insurance Group, Level 3, GSIS Building, Financial Center, Roxas Blvd., Pasay City, during office hours.

A complete set of Bidding Documents may be purchased by interested Bidders from the date of publication of this ITB at the above address and upon payment of a non-refundable fee for the Bidding Documents in the amount of *Php50,000.00*. It may also be downloaded free of charge from the website of the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Procuring Entity. However, the Underwriting Information *shall only be available to Bidders who have paid the non-refundable fee of Php50,000.00* not later than the submission of their bids.

The GSIS will hold a Pre-Bid Conference on **06 November 2015 (10:00 am)** at the *GIBAC Conference Room, Core C, Level 3, GSIS Building, Financial Center, Roxas Blvd., Pasay City*.

The short list of preferred lead market accordingly ranked must be delivered by the potential bidders on or before **06 November 2015 (8:30 am)** at the GIBAC Secretariat, Insurance Group, Level 3, GSIS Building, Financial Center, Roxas Blvd. Pasay City. Late submission shall not be accepted. The lead markets will be allocated on the same date after the Pre-Bid conference, in the presence of the Bidders or their representatives who choose to attend. The GSIS shall thereafter issue the corresponding certificates of exclusive Lead Market allocation (Annex A) which shall be posted in the GSIS and PHILGEPS websites. Potential bidders are prohibited from approaching retrocessionaires who have been allocated to other potential bidders for the purpose of securing quotations for the submission of bids. Failure of a bidder to submit its short list of preferred lead market shall result in the disqualification of the said bidder.



In case two (2) or more bidders have the same lead market, a tie breaking method based on sheer luck or chance such as “draw lots” or similar methods of chance will be used. The provisions of GPPB Circular No. 06-2005 dated 05 August 2005, or the Guidelines on the Use of Non-Discretionary/Non-Discriminatory Selection criteria as Tie-Breaking Method in Case of Two or More Bidders are Determined and Declared as the Lowest Calculated and Responsive Bidder (LCRB) or Highest Rated and Responsive Bidder (HRRB), shall apply by analogy. In case they submitted the same lead market, this shall not be a ground for disqualification.

The Technical Documents stated in the BDS Clause 12.1 (b) and Financial Bid must be submitted *at the GIBAC Secretariat, Insurance Group, Level 3, GSIS Building, Financial Center, Roxas Blvd., Pasay City* on or before **24 November 2015 (8:30 am)**. All bids must be accompanied by a bid security in any acceptable forms and in the amount stated in ITB Clause 18. Late bids shall not be accepted.

Bid opening shall be on **24 November 2015 (10:00 am)** *at the GIBAC Conference Room, Core C, Level 3, GSIS Building, Financial Center, Roxas Blvd., Pasay City*. Bids will be opened in the presence of the Bidders or their representatives who choose to attend at the address below. Late bids shall not be accepted.

The GSIS encourages the submission of eligibility requirements before the deadline for submission of bids.

The GSIS reserves the right to accept or reject any bid, to annul the bidding process, and to reject all bids at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.

For further information, please refer to:

*Atty. Nelo B. Gellaco
Head, GSIS Insurance Bids and Awards Committee Secretariat
Level 3, GSIS Building, Financial Center, Roxas Blvd., Pasay City
Contact no. 479-3600 loc 3558
Email Address: gibac@gsis.gov.ph*



Section II. Instructions to Bidders

A. General

1. Scope of Bid

- 1.1. The procuring entity named in the **BDS** (hereinafter referred to as the “Procuring Entity”) wishes to receive bids for supply and delivery of the goods as described in **Error! Reference source not found.** (hereinafter referred to as the “Goods”).
- 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 28.

2. Source of Funds

The Procuring Entity has a budget or has applied for 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.

3. Corrupt, Fraudulent, Collusive, and Coercive Practices

- 3.1. Unless otherwise specified in the **BDS**, the Procuring Entity as well as the bidders and suppliers shall observe the highest standard of ethics during the procurement and execution of the contract. In pursuance of this policy, the Procuring Entity:
 - (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 government, 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 RA 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.
- (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 any of the practices mentioned in this Clause for purposes of competing for the contract.

3.2. Further, the Procuring Entity will seek to impose the maximum civil, administrative, and/or criminal penalties available under 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 bidder or supplier in the bidding for and performance of a contract themselves or through independent auditors as reflected in the GCC Clause 3.

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) below and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (f) 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. This will include a firm or an organization 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;
- (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; or
- (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.

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, 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; and
- (d) If the Bidder is a joint venture (JV), the provisions of items (a), (b), or (c) 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 provided 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 sixty percent (60%) of the interest belongs to citizens of the Philippines;
 - (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
 - (d) Cooperatives duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines; and
 - (e) Unless otherwise provided in the **BDS**, 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 Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%).
- 5.2. Foreign bidders may be eligible to participate when any of the following circumstances exist, as specified in the **BDS**:
- (a) When a Treaty or International or Executive Agreement as provided in Section 4 of the RA 9184 and its IRR allow foreign bidders to participate;
 - (b) Citizens, corporations, or associations of a country, included in the list issued by the GPPB, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;
 - (c) When the Goods sought to be procured are not available from local suppliers; or
 - (d) When there is a need to prevent situations that defeat competition or restrain trade.
- 5.3. Government corporate entities 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 dependent agencies of the GOP or the Procuring Entity.
- 5.4. Unless otherwise provided in the **BDS**, the Bidder must have completed at least one contract similar to the Project the value of which, adjusted to current prices using the National Statistics Office consumer price index, must be at least equivalent to a percentage of the ABC stated in the **BDS**.

For this purpose, contracts similar to the Project shall be those described in the **BDS**, and completed within the relevant period stated in the Invitation to Bid and **ITB** Clause 12.1(a)(iii).

- 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) (K)] 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 to be bid.

Current assets and current liabilities shall be based on the data submitted to the Bureau of Internal Revenue (BIR), through its electronic Filing and Payment System (EFPS).

Where:

K=10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.

*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 to be bid shall be the bidder's **net premiums written** (per latest report released by the Insurance Commission (IC) in its website).*

6. Bidder's Responsibilities

- 6.1. The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VII. 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 10.3.
 - (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 Head of the Procuring Entity 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 and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture;
- (i) Complying with the disclosure provision under Section 47 of RA 9184 in relation to other provisions of RA 3019; and
- (j) Complying with existing labor laws and standards, in the case of procurement of services.

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

- 6.3. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents.
- 6.4. It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of this Project; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this Project.
- 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.
- 6.6. 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.
- 6.7. Before submitting their bids, the Bidder is deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect this Project in any way.
- 6.8. The Bidder should note that the Procuring Entity will accept bids only from those that have paid the nonrefundable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

7. Origin of Goods

Unless otherwise indicated in the **BDS**, there is no restriction on the origin of goods other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, subject to **ITB** Clause 27.1.

8. Subcontracts

- 8.1. Unless otherwise specified in the **BDS**, the Bidder may subcontract portions of the Goods 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 comply with the eligibility criteria and the documentary requirements 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 Goods shall be disallowed.
- 8.3. The Bidder may identify the subcontractor to whom a portion of the Goods 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.

A. Contents of Bidding Documents

9. Pre-Bid Conference

- 9.1. (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 and receipt of bids. 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 discussed during the pre-bid conference.
- 9.3. Any statement made at the pre-bid conference shall not modify the terms of the Bidding Documents unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.

10. Clarification and Amendment of Bidding Documents

- 10.1. Bidders who have purchased the Bidding Documents may request for clarification on any part of the Bidding Documents for an interpretation. Such 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. Supplemental/Bid Bulletins may 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.
- 10.3. Any Supplemental/Bid Bulletin issued by the BAC shall also be posted on the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Procuring Entity concerned, if available. It shall be the responsibility of all Bidders who secure 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.

B. Preparation of Bids

11. Language of Bid

The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring Entity, shall be written in English. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation in English certified by the appropriate embassy or consulate in the Philippines, in which case 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) Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives, or any proof of such registration as stated in the **BDS**;
- (ii) Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located;
- (iii) Statement of all its ongoing and completed government and private contracts within the period stated in the **BDS**, including contracts awarded but not yet started, if any. The statement shall include, for each contract, the following:
 - (iii.1) name of the contract;
 - (iii.2) date of the contract;

- (iii.3) kinds of Goods;
 - (iii.4) amount of contract and value of outstanding contracts;
 - (iii.5) date of delivery; and
 - (iii.6) end user's acceptance or official receipt(s) issued for the contract, if completed.
- (iv) Audited financial statements, stamped "received" by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions, for the preceding calendar year, which should not be earlier than two (2) years from bid submission;
 - (v) NFCC computation or CLC in accordance with **ITB** Clause 5.5; and
 - (vi) Tax clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR or appropriate equivalent documents, if any, issued by the country of the foreign Bidder concerned authenticated ('consularized') by the Philippine Embassy; and

Class "B" Document:

- (vii) If applicable, the JVA in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful.
- (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, it shall be accompanied by a certification by the Insurance Commission that the surety or insurance company is authorized to issue such instruments;
 - (ii) Conformity with technical specifications, as enumerated and specified in Sections VI and VII of the Bidding Documents; and
 - (iii) Sworn statement in accordance with Section 25.2(a)(iv) of the IRR of RA 9184 and using the form prescribed in Section VII. Bidding Forms.

13. Documents Comprising the Bid: Financial Component

- 13.1. Unless otherwise stated in the **BDS**, the financial component of the bid shall contain the following:
- (a) Financial Bid Form, which includes bid prices and the bill of quantities and the applicable Price Schedules, in accordance with **ITB** Clauses 15.1 and 15.4;
 - (b) If the Bidder claims preference as a Domestic Bidder or Domestic Entity, a certification from the DTI, SEC, or CDA issued in accordance with **ITB** Clause 27, unless otherwise provided in the **BDS**; and
 - (c) 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 responsible unit of the procuring entity and that the estimates 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.
 - (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 system to monitor and report bid prices relative to ABC and procuring entity's estimate. 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

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.



15. Bid Prices

- 15.1. The Bidder shall complete the appropriate Price Schedules included herein, stating the unit prices, total price per item, the total amount and the expected countries of origin of the Goods to be supplied under this Project.
- 15.2. The Bidder shall fill in rates and prices for all items of the Goods 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 "0" (zero) for the said item would mean that it is being offered for free to the Government.
- 15.3. The terms Ex Works (EXW), Cost, Insurance and Freight (CIF), Cost and Insurance Paid to (CIP), Delivered Duty Paid (DDP), and other trade terms used to describe the obligations of the parties, shall be governed by the rules prescribed in the current edition of the International Commercial Terms (INCOTERMS) published by the International Chamber of Commerce, Paris.
- 15.4. Prices indicated on the Price Schedule shall be entered separately in the following manner:
- (a) For Goods offered from within the Procuring Entity's country:
 - (i) The price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable:
 - (i.1) on the components and raw material used in the manufacture or assembly of Goods quoted ex works or ex factory; or
 - (i.2) on the previously imported Goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf and any Procuring Entity country sales and other taxes which will be payable on the Goods if the contract is awarded.
 - (ii) The price for inland transportation, insurance, and other local costs incidental to delivery of the Goods to their final destination.
 - (iii) The price of other (incidental) services, if any, listed in the **BDS**.
 - (b) For Goods offered from abroad:
 - (i) Unless otherwise stated in the **BDS**, the price of the Goods shall be quoted DDP with the place of destination in the Philippines as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.

- (ii) The price of other (incidental) services, if any, listed in the **BDS**.

15.5. Prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation or price escalation on any account. A bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to **ITB** Clause 24.

All bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances. Extraordinary circumstances refer to events that may be determined by the National Economic and Development Authority in accordance with the Civil Code of the Philippines, and upon the recommendation of the Procuring Entity. 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.

16. Bid Currencies

16.1. Prices shall be quoted in the following currencies:

- (a) For Goods that the Bidder will supply from within the Philippines, the prices shall be quoted in Philippine Pesos.
- (b) For Goods that the Bidder will supply from outside the Philippines, the prices may be quoted in the currency(ies) stated 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 as published in the BSP reference rate bulletin 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 foregoing exchange rates.

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 bid security in the amount stated in the **BDS** shall be equal to the percentage of the ABC in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Equal to Percentage of the ABC)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)
(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.	
(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.	Five percent (5%)
(d) Bid Securing Declaration Form	

For biddings conducted by LGUs, the Bidder may also submit bid securities in the form of cashier's/manager's check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial statement.

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 motion for reconsideration and/or protest. Without prejudice on its forfeiture, bid securities shall be returned only after the bidder with the Lowest Calculated and Responsive Bid 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 32, and the posting of the performance security pursuant to **ITB** Clause 33, the successful Bidder's bid security will be discharged, but in no case later than the bid security validity period as indicated in the **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 28.3(b);
 - (iii) fails to submit the requirements within the prescribed period or a finding against their veracity as stated in **ITB** Clause 29.2;
 - (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 Lowest Calculated and Responsive Bid;
 - (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 32; or
 - (ii) fails to furnish performance security in accordance with **ITB** Clause 33.

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 VII. Bidding Forms on or before the deadline specified in the **ITB** Clauses 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.
- 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 the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.4. The bid, except for unamended printed literature, shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the Bidder.
- 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 indelible 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 1.1;
 - (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. If bids are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the bid.

C. 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**.

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.

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, properly identified, 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.

23.3. Bids requested to be withdrawn in accordance with **ITB** Clause 23.1 shall be returned unopened to the Bidders. A Bidder 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 first bid envelopes of Bidders in public as specified in the **BDS** to determine each Bidder's compliance with the documents prescribed in **ITB** Clause 12. For this purpose, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, 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".
- 24.2. 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.
- 24.3. 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. If the withdrawing Bidder's representative is in attendance, the original bid and all copies thereof shall be returned to the representative during the bid opening. If the representative is not in attendance, the bid shall be returned unopened by registered mail. The Bidder may withdraw its bid prior to the deadline for the submission and receipt of bids, provided that the corresponding Letter of Withdrawal contains a valid authorization requesting for such withdrawal, subject to appropriate administrative sanctions.
- 24.4. If a Bidder has previously secured a certification from the Procuring Entity to the effect that it has previously submitted the above-enumerated Class "A" Documents, the said certification may be submitted in lieu of the requirements enumerated in **ITB** Clause 12.1(a), items (i) to (v).
- 24.5. In the case of an eligible foreign Bidder as described in **ITB** Clause 5, the Class "A" Documents described in **ITB** Clause 12.1(a) may be substituted with the appropriate equivalent documents, if any, issued by the country of the foreign Bidder concerned.
- 24.6. Each partner of a joint venture agreement shall likewise submit the requirements in **ITB** Clauses 12.1(a)(i) and 12.1(a)(ii). Submission of documents required under **ITB** Clauses 12.1(a)(iii) to 12.1(a)(v) by any of the joint venture partners constitutes compliance.

- 24.7. A Bidder determined as “failed” has three (3) calendar days upon written notice or, if present at the time of bid opening, upon verbal notification, within which to file a request or motion for reconsideration with the BAC: Provided, however, that the motion for reconsideration shall not be granted if it is established that the finding of failure is due to the fault of the Bidder concerned: Provided, further, that the BAC shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. If a failed Bidder signifies his intent to file a motion for reconsideration, the BAC shall keep the bid envelopes of the said failed Bidder unopened and/or duly sealed until such time that the motion for reconsideration or protest has been resolved.
- 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, bid security, findings of preliminary examination; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.

D. 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. Domestic Preference

- 27.1. Unless otherwise stated in the **BDS**, the Procuring Entity will grant a margin of preference for the purpose of comparison of bids in accordance with the following:
- (a) The preference shall be applied when (i) the lowest Foreign Bid is lower than the lowest bid offered by a Domestic Bidder, or (ii) the lowest bid offered by a non-Philippine national is lower than the lowest bid offered by a Domestic Entity.

- (b) For evaluation purposes, the lowest Foreign Bid or the bid offered by a non-Philippine national shall be increased by fifteen percent (15%).
 - (c) In the event that (i) the lowest bid offered by a Domestic Entity does not exceed the lowest Foreign Bid as increased, or (ii) the lowest bid offered by a non-Philippine national as increased, then the Procuring Entity shall award the contract to the Domestic Bidder/Entity at the amount of the lowest Foreign Bid or the bid offered by a non-Philippine national, as the case may be.
 - (d) If the Domestic Entity/Bidder refuses to accept the award of contract at the amount of the Foreign Bid or bid offered by a non-Philippine national within two (2) calendar days from receipt of written advice from the BAC, the Procuring Entity shall award to the bidder offering the Foreign Bid or the non-Philippine national, as the case may be, subject to post-qualification and submission of all the documentary requirements under these Bidding Documents.
- 27.2. A Bidder may be granted preference as a Domestic Entity subject to the certification from the DTI (in case of sole proprietorships), SEC (in case of partnerships and corporations), or CDA (in case of cooperatives) that the (a) sole proprietor is a citizen of the Philippines or the partnership, corporation, cooperative, or association is duly organized under the laws of the Philippines with at least seventy five percent (75%) of its interest or outstanding capital stock belonging to citizens of the Philippines, (b) habitually established in business and habitually engaged in the manufacture or sale of the merchandise covered by his bid, and (c) the business has been in existence for at least five (5) consecutive years prior to the advertisement and/or posting of the Invitation to Bid for this Project.
- 27.3. A Bidder may be granted preference as a Domestic Bidder subject to the certification from the DTI that the Bidder is offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

28. Detailed Evaluation and Comparison of Bids

- 28.1. 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.
- 28.2. 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 the highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.
- 28.3. The Procuring Entity's BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary pass/fail criteria. Unless otherwise specified in the **BDS**, the BAC shall consider the following in the evaluation of bids:

- (a) Completeness of the bid. Unless the ITB specifically 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 "0" (zero) for the said item would mean that it is being offered for free to the Procuring Entity; and
 - (b) Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications, if allowed in the **BDS**. Any adjustment shall be calculated in monetary terms to determine the calculated prices.
- 28.4. 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**.
- 28.5. The Procuring Entity's evaluation of bids shall only be based on the bid price quoted in the Financial Bid Form.
- 28.6. 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.

29. Post-Qualification

- 29.1. The Procuring Entity shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid (LCB) complies with and is responsive to all the requirements and conditions specified in **ITB** Clauses 5, 12, and 13.
- 29.2. Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:
- (a) Latest income and business tax returns in the form specified in the **BDS**;
 - (b) Certificate of PhilGEPS Registration; and
 - (c) Other appropriate licenses and permits required by law and stated in the **BDS**.

Failure of the Bidder declared as Lowest Calculated Bid to duly submit the requirements under this Clause or a finding against the veracity of such shall be ground for forfeiture of the bid security and disqualification of the Bidder for award.

- 29.3. 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.
- 29.4. 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 Lowest Calculated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower.
- 29.5. 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 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 Lowest Calculated Responsive Bid is determined for contract award.
- 29.6. Within a period not exceeding seven (7) calendar days from the date of receipt of the recommendation of the BAC, the Head of the Procuring Entity shall approve or disapprove the said recommendation. In the case of GOCCs and GFIs, the period provided herein shall be fifteen (15) calendar days.

30. Reservation Clause

- 30.1. 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.
- 30.2. 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 head of the procuring entity;
 - (ii) If the project is no longer necessary as determined by the head of the procuring entity; and
 - (iii) If the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.
- 30.3. 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 or fail post-qualification; or
 - (d) The Bidder with the Lowest Calculated Responsive Bid (LCRB) refuses, without justifiable cause to accept the award of contract, and no award is made.

E. Award of Contract

31. Contract Award

- 31.1. Subject to **ITB** Clause 29, the Procuring Entity shall award the contract to the Bidder whose bid has been determined to be the LCRB.
- 31.2. 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 received personally or sent 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.
- 31.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:
 - (a) Submission of the valid JVA, if applicable, within ten (10) calendar days from receipt by the Bidder of the notice from the BAC that the Bidder has the LCRB;
 - (b) Posting of the performance security in accordance with **ITB** Clause 33;
 - (c) Signing of the contract as provided in **ITB** Clause 32; and
 - (d) Approval by higher authority, if required.

31.4. At the time of contract award, the Procuring Entity shall not increase or decrease the quantity of goods originally specified in Section VI. .

32. Signing of the Contract

32.1. 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.

32.2. Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security and sign and date the contract and return it to the Procuring Entity.

32.3. 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.

32.4. 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;
- (d) Performance Security;
- (e) Credit line in accordance with **ITB** Clause 5.5, if applicable;
- (f) Notice of Award of Contract; and
- (g) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

33. Performance Security

33.1. 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.

33.2. The performance security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount equal to the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Equal to Percentage of the Total Contract Price)
(a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Five percent (5%)
(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(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; and/or	Thirty percent (30%)
(d) Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

33.3. 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 initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the LCRB is identified and selected for 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.

34. Notice to Proceed

34.1. Within three (3) calendar days from the date of approval of the contract by the appropriate government approving authority, the Procuring Entity shall issue its Notice to Proceed to the Bidder.

34.2. The contract effectivity date shall be provided in the Notice to Proceed by the Procuring Entity, which date shall not be later than seven (7) calendar days from the issuance of the Notice to Proceed.

Section III. Bid Data Sheet

ITB Clause	
1.1	The Procuring Entity is Government Service Insurance System (GSIS)
1.2	The lot(s) and reference is/are: Not applicable
2	The Funding Source is: The Government of the Philippines (GOP) through the GSIS Corporate Budget for the Year 2015 in the amount of Four Hundred Million Thirty One Thousand Two Hundred Forty Pesos (Php400,031,240.00), representing 100% Gross Premium. The name of the Project is: 2016 GSIS PROPERTY & ENGINEERING COMBINED RISK AND CATASTROPHE EXCESS OF LOSS TREATY
3.1	No further instructions.
4.2	The bidder should also not be related to any of the members of the GSIS Board of Trustees or the GSIS Insurance Bids and Awards Committee (GIBAC), by consanguinity or affinity up to the third civil degree.
5.1	No further instructions.
5.2	Except c. When the Goods sought to be procured are not available from local suppliers
5.4	In view of the determination by the Procuring Entity that imposition of the provisions of Section 23.5.1.3 of the IRR of RA 9184 will likely result in the failure of bidding or monopoly that will defeat the purpose of public bidding, the Bidder should comply with the following requirements:
7	No further instructions.
8.1	No further instructions.
8.2	No further instructions.
9.1	The Procuring Entity will hold a pre-bid conference for this Project on 06 November 2015 (10:00 am) at the GIBAC Conference Room, Core C, Level 3, GSIS Building, Financial Center, Roxas Blvd.,- Pasay City

10.1	<p>The Procuring Entity's address is:</p> <p style="text-align: center;">Atty. Nelo B. Gellaco Head, GSIS Insurance Bids and Awards Committee Secretariat Level 3, GSIS Building, Financial Center, Roxas Blvd., Pasay City Contact no. 479-3600 loc 3558 Email Address: gibac@gsis.gov.ph</p>
12.1 (a)	<p>I. ELIGIBILITY DOCUMENTS for the Excess of Loss Treaty</p>
	<p>In the case of Foreign bidders, the foregoing eligibility requirements under Class "A" Documents may be substituted by the appropriate equivalent documents, if any, issued by the country of the foreign bidder concerned. The eligibility requirements of statements, the bids, and all other documents to be submitted to the GSIS Bids and Awards Committee must be in English. A translation of the documents in English certified by the appropriate embassy or consulate in the Philippines must accompany the eligibility requirements under Class "A" documents if they are in other foreign language.</p>
	<p>- CLASS "A" DOCUMENTS</p>
1.	<p>Registration certificate from Securities and Exchange Commission (SEC), or equivalent registration or incorporation certificate for foreign bidders.</p>
2.	<p>Valid and current Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located or its equivalent as regards foreign bidders.</p>
3.	<p>Tax Clearance per Executive Order 398, Series of 2005, as finally reviewed and approved by the BIR or a Certificate from the BIR that the bidder has no outstanding tax liability as may be applicable.</p>
4.	<p>Statement of at least one ongoing and/or completed Treaty issued within the last two (2) years. The statement shall include the following:</p> <ul style="list-style-type: none"> (a) Name of the Reinsured if not covered under a Non-disclosure Agreement (b) Period of cover of the Treaty (c) Treaty Name (d) Limit of Liability (e) Premium
5.	<p>Audited financial statements, stamped "received" by the BIR or its duly accredited and authorized institutions for the preceding calendar year, which should not be earlier than two (2) years from bid submission.</p>

6.	<p><i>NFCC computation in accordance with ITB Clause 5.5</i></p> <p>1. NFCC, computed using the following formula, must be at least equal to the ABC to be bid:</p> <p>NFCC= [(Current assets minus current liabilities) (K)] 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 to be bid.</p> <p>Current assets and current liabilities shall be based on the data submitted to the Bureau of Internal Revenue (BIR), through its electronic Filing and Payment System (EFPS).</p> <p>Where:</p> <p>K=10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.</p> <p>The value of all outstanding or uncompleted portions of the projects under on-going contracts, including awarded contracts yet to be started coinciding with the contract to be bid shall be the bidder's net premiums written.</p>
7.	<p>Certification on the following:</p> <ol style="list-style-type: none"> a. Annual gross premiums placed or written b. Bidder's claims handling experience <ul style="list-style-type: none"> • Top ten (10) claims paid for the year 2014/2015 • Average Turn Around Time for claims payment based on settled claims in 2014 c. Has licensed software for analytics such as Catastrophe modeling, Dynamic Financial Analysis, etc. d. Access to global/international reinsurance markets
- CLASS "B" DOCUMENTS	
1.	<p>If applicable, the JVA in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful.</p>
II. TECHNICAL DOCUMENTS	
1.	<p>Bid security in accordance with ITB Clause 18. If the Bidder opts to submit the bid security in the form of:</p> <ol style="list-style-type: none"> (a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank; or (b) 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

		<p>(c) Surety Bond issued by any authorized insurance company and it shall be accompanied by a certification by the Insurance Commission that the surety or insurance company is authorized to issue such instruments. The surety bond shall be obtained from another insurance company other than the bidder; or</p> <p>(d) Notarized Bid Securing Declaration (form attached)</p>
	2.	<p>Insurance & Reinsurance Companies and Reinsurance Brokers must submit the following:</p> <p>2.1 Sworn statement indicating the retention per layer of the bidder .</p> <p>2.2 Certification that its panel of reinsurers/retrocessionaires are rated at least "A-" by the Standard & Poor's or AM Best.</p> <p>The panel of reinsurers with their corresponding share per layer and the rate on line is a post-qualification requirement and must be submitted within fourteen (14) calendar days from the declaration of the lowest calculated bidder.</p> <p>No reinsurer shall have a share of less than 5% and more than 30% in the treaty program, across the board.</p>
	3.	<p>Certification from the bidder that it has a lead line of at least 50% of the treaty limit at the Opening of Bids.</p>
	4.	<p>The bidder and its panel of reinsurers must certify conformity with Section VI – Contractual Details and its acceptance shall remain as such for the duration of the Treaty contract. (form provided).</p>
	5.	<p>Sworn Statement in accordance with Section 25.2. (a) (iv) of the IRR of RA 9184 and using the form prescribed in Section VII. Bidding Forms including the duly notarized Secretary's Certificate providing the authorization to the signatory or its representative (form provided)</p>
	6.	<p>Notarized Undertaking that the bidder, if appointed shall furnish GSIS true copies of the Signed Slips/Cover Notes of all participating Reinsurers indicating their shares with the corresponding rate within five (5) days from receipt of the award (form provided)</p>
13.1		Not applicable.
13.1(b)		Not applicable.
13.2		The ABC is Four Hundred Million Thirty One Thousand Two Hundred Forty Pesos (Php400,031,240.00), representing 100% Gross Premium. Any bid with a financial component exceeding this amount shall not be accepted.
15.1		Bid Prices – The bidder shall complete the financial bid stating the bid for the contract. If no price is indicated in a particular module, or specifying a "0" for a given module, the bid shall be considered unresponsive.
15.2		Not applicable

15.3	Not applicable
15.4	Not applicable.
16.1	Prices shall be quoted in Philippine Peso
16.3	Contract Price must be in Philippine Peso
17.1	Bids will be valid until One Hundred Twenty (120) Calendar days from the date of the opening of Bids.
18.1	<p>The bid security shall be in the following amount:</p> <ol style="list-style-type: none"> 1. The amount of <i>2% of ABC</i> if bid security is in cash, cashier's/manager's check, bank draft/guarantee or irrevocable letter of credit; 2. The amount of <i>5% of ABC</i> if bid security is in Surety Bond to be issued by any authorized insurance company and it shall be accompanied by a certification by the Insurance Commission that the surety or insurance company is authorized to issue such instruments. The surety bond shall be obtained from another insurance company other than the bidder. 3. Notarized Bid Securing Declaration.
18.2	The bid security shall be valid until One Hundred Twenty (120) Calendar days from the opening of Bids.
20.3	Each Bidder shall submit 1 original and 2 copies of the first and second components of its bid.
21	<p>The address for submission of eligibility documents, and the technical and financial bids is:</p> <p style="text-align: center;">GIBAC Secretariat, Insurance Group, Level 3 GSIS Building, Financial Center, Roxas Blvd., Pasay City</p> <p>The deadline for the submission of bids is 24 November 2015 (8:30 am).</p> <p>The place of bid opening is:</p> <p style="text-align: center;">GIBAC Conference Room, Level 3 GSIS Building, Financial Center, Roxas Blvd. Pasay City</p>
24.1	<p>The place of bid opening is:</p> <p style="text-align: center;">GIBAC Conference Room, Core C, Level 3 GSIS Building, Financial Center, Roxas Blvd., Pasay City</p> <p>The date and time of bid opening is 24 November 2015 (10:00 am).</p>
27.1	No further instructions.

28.3(a)	Bid Prices – If no price is indicated, or “0” is specified, the bid shall be considered unresponsive.
28.3(b)	Bid modification is not allowed.
28.4	No further instructions.
29.2(a)	<p>Bidders shall submit manually filed tax returns, or an equivalent document for foreign bidders issued by the appropriate government agency of the country of their origin.</p> <p><i>NOTE: The latest income and business tax returns (VAT or Percentage Tax Returns) are those within the last six months preceding the date of bid submission.</i></p>
29.2(c)	<p>For Insurers/Reinsurers, certified true copy of a valid and current Certificate of Authority issued by the Insurance Commission.</p> <p>For Brokers, certified true copy of a valid and current License to act as reinsurance broker by the Insurance Commission.</p> <p>For a Foreign Bidder, a certified true copy of the Certificate of Authority/Brokers License issued by the country of origin, and a Certified true copy of the Certificate of Registration issued by the Insurance Commission for its resident agent.</p>

SECTION IV. GENERAL CONDITIONS OF THE CONTRACT

1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the supplies, equipment, machinery, spare parts, other materials and/or general support services which the Supplier is required to provide to the Procuring Entity under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this Section.
- (f) "SCC" means the Special Conditions of Contract.
- (g) "The Procuring Entity" means the organization purchasing the Goods, as named in the **SCC**.
- (h) "The Procuring Entity's country" is the Philippines.
- (i) "The Supplier" means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract and named in the **SCC**.
- (j) The "Funding Source" means the organization named in the **SCC**.
- (k) "The Project Site," where applicable, means the place or places named in the **SCC**.
- (l) "Day" means calendar day.
- (m) The "Effective Date" of the contract will be the date of receipt by the Supplier of the Notice to Proceed or the date provided in the Notice to Proceed. Performance of all obligations shall be reckoned from the Effective Date of the Contract.

- (n) "Verified Report" refers to the report submitted by the Implementing Unit to the Head of the Procuring Entity setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

2.1. Unless otherwise provided in the **SCC**, the Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Procuring Entity:

- (a) defines, for the 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 it 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 Government, 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.
 - (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 any of the practices mentioned in this Clause for purposes of competing for the contract.

2.2. Further the Funding Source, Borrower or 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 any of the practices mentioned in **GCC** Clause 2.1(a).

3. Inspection and Audit by the Funding Source

The Supplier shall permit the Funding Source to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.

4. Governing Law and Language

4.1. This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

4.2. 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 exchanged by the parties shall be written in English.

5. Notices

5.1. Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the **SCC**, which shall be effective when delivered and duly received or on the notice's effective date, whichever is later.

5.2. A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to the provisions listed in the **SCC** for **GCC** Clause 5.1.

6. Scope of Contract

- 6.1. The GOODS and Related Services to be provided shall be as specified in Section VI. .
- 6.2. This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned herein. Any additional requirements for the completion of this Contract shall be provided in the **SCC**.

7. Subcontracting

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract, subject to compliance with the required qualifications and the approval of the Procuring Entity.

8. Procuring Entity's Responsibilities

- 8.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local public authorities, the Procuring Entity shall, if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 8.2. The Procuring Entity shall pay all costs involved in the performance of its responsibilities in accordance with **GCC** Clause 6.

9. Prices

- 9.1. For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR or except as provided in this Clause.
- 9.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with **GCC** Clause 29.

10. Payment

- 10.1. Payments shall be made only upon a certification by the Head of the Procuring Entity to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in **GCC** Clause 17.
- 10.2. The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted pursuant to the **SCC** provision for **GCC** Clause 6.2, and upon fulfillment of other obligations stipulated in this Contract.
- 10.3. Pursuant to **GCC** Clause 10.2, payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier.
- 10.4. Unless otherwise provided in the SCC, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.

11. Advance Payment and Terms of Payment

- 11.1. Advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex "D" of RA 9184.
- 11.2. For Goods supplied from abroad, the terms of payment shall be as follows:
 - (a) On Contract Signature: Ten percent (10%) of the Contract Price shall be paid within sixty (60) days from signing of the Contract and upon submission of a claim and a bank guarantee for the equivalent amount valid until the Goods are delivered and in the form provided in Section VIII. Bidding Forms.
 - (b) On Delivery: Seventy percent (70%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents (i) through (vi) specified in the **SCC** provision on Delivery and Documents.
 - (c) On Acceptance: The remaining twenty percent (20%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the Procuring Entity's authorized representative. In the event that no inspection or acceptance certificate is issued by the Procuring Entity's authorized representative within forty five (45) days of the date shown on the delivery receipt the Supplier shall have the right to claim payment of the remaining twenty percent (20%) subject to the Procuring Entity's own verification of the reason(s) for the failure to issue documents (vii) and (viii) as described in the **SCC** provision on Delivery and Documents.

11.3. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.

12. Taxes and Duties

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

13. Performance Security

13.1. 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 successful Bidder shall furnish the performance security in any the forms prescribed in the **ITB** Clause 33.2.

13.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.

13.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.

13.4. The performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:

- (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;
- (b) The Supplier has no pending claims for labor and materials filed against it; and
- (c) Other terms specified in the **SCC**.

13.5. In case of a reduction of the contract value, 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.

14. Use of Contract Documents and Information

14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the Procuring Entity's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

14.2. Any document, other than this Contract itself, enumerated in **GCC** Clause 14.1 shall remain the property of the Procuring Entity and shall be returned (all copies) to the Procuring Entity on completion of the Supplier's performance under this Contract if so required by the Procuring Entity.

15. Standards

The Goods provided under this Contract shall conform to the standards mentioned in the **Error! Reference source not found.**; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

16. Inspection and Tests

- 16.1. The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The **SCC** and **Error! Reference source not found.** shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity. The Supplier shall provide the Procuring Entity with results of such inspections and tests.
- 16.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 16.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to **GCC** Clause 5.
- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

17. Warranty

- 17.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.

- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in the **SCC**. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least ten percent (10%) of the final payment, or a special bank guarantee equivalent to at least ten percent (10%) of the Contract Price or other such amount if so specified in the **SCC**. The said amounts shall only be released after the lapse of the warranty period specified in the **SCC**; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 17.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC** and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in **GCC** Clause 17.4, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract and under the applicable law.

18. Delays in the Supplier's Performance

- 18.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity in Section VI.
- 18.2. If at any time during the performance of this Contract, the Supplier or its Subcontractor(s) should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, and upon causes provided for under **GCC** Clause 22, the Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.
- 18.3. Except as provided under **GCC** Clause 22, a delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to **GCC** Clause 19, unless an extension of time is agreed upon pursuant to **GCC** Clause 29 without the application of liquidated damages.

19. Liquidated Damages

Subject to **GCC** Clauses 18 and 22, if the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, the Procuring Entity shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the maximum is reached, the Procuring Entity shall rescind the Contract pursuant to **GCC** Clause 23, without prejudice to other courses of action and remedies open to it.

20. Settlement of Disputes

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.
- 20.4. In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."
- 20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

21. Liability of the Supplier

- 21.1. The Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines, subject to additional provisions, if any, set forth in the **SCC**.
- 21.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

22. Force Majeure

- 22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. 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. Such events may include, but not limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

23. Termination for Default

- 23.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attends its implementation:
- (a) Outside of *force majeure*, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;
 - (b) As a result of *force majeure*, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or
 - (c) The Supplier fails to perform any other obligation under the Contract.
- 23.2. In the event the Procuring Entity terminates this Contract in whole or in part, for any of the reasons provided under **GCC** Clauses 23 to 26, the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.
- 23.3. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

24. Termination for Insolvency

The Procuring Entity shall terminate this Contract if the Supplier 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 Supplier, 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 Supplier.

25. Termination for Convenience

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

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

- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
- (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.

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

26. Termination for Unlawful Acts

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

- (a) Corrupt, fraudulent, and coercive practices as defined in **ITB** Clause 3.1(a);
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and

- (d) Any other act analogous to the foregoing.

27. Procedures for Termination of Contracts

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

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the Head of the Procuring Entity shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
 - (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 Supplier to show cause as to why this Contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the Head of the Procuring Entity a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the Procuring Entity shall issue an order terminating this Contract;
- (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper described in item (d) 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 Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the Procuring Entity shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The Head of the Procuring Entity may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the Procuring Entity; and

- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

28. Assignment of Rights

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

29. Contract Amendment

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

30. Application

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

Section V. Special Conditions of Contract

GCC Clause	
1.1(a)	“The Contract” means the 2016 Property and Engineering Risk and Catastrophe Excess of Loss treaty Contract signed by the GSIS and the Reinsurer including all its attachments, appendices as well as all the Bid documents which are deemed incorporated therein.
1.1(b)	“The Contract Price” means the minimum deposit premium to be paid by the GSIS to the Reinsurer under the treaty contract.
1.1(c)	“Goods” means the treaty contract.
1.1(g)	The Procuring Entity is the Government Service Insurance System.
1.1(i)	The Supplier is <i>[to be inserted at the time of contract award]</i> . “The Supplier” means the winning bidder if it is a reinsurance company. If the winning bidder is a reinsurance broker, the Supplier means the reinsurance broker and/or its securities as appropriate.
1.1(j)	The Funding Source is the Government of the Philippines (GOP) through <i>GSIS Corporate Budget for the Year 2015</i> in the amount of Four Hundred Million Thirty One Thousand Two Hundred Forty Pesos (Php400,031,240.00).
1.1(k)	Not applicable.
5.1	<p>The Procuring Entity’s address for Notices is:</p> <p style="text-align: center;">Atty. Nelo B. Gellaco Head, GSIS Insurance Bids and Awards Committee Secretariat Level 3, GSIS Building, Financial Center, Roxas Blvd., Pasay City Contact no. 479-3600 loc 3558 Email: gibac@gsis.gov.ph</p> <p>The Supplier’s address for Notices is: <i>[Insert address including, name of contact, fax and telephone number of winning bidder to be inserted at the time of contract award]</i></p>
6.1	The Goods and Related Services to be provided shall be specified in the Technical Specifications, in Section VI hereof.
6.2	Not Applicable
10	Full Payment of <i>Minimum Deposit Premium</i> shall be made by the GSIS as stated in the Terms and Conditions of the Treaty Program. Payment shall be made in Philippine Peso.
11	Not applicable.
15	Not applicable
16	Not applicable
17	Not applicable

21.1	All partners to the joint venture, if any, shall be jointly and severally liable to the Procuring Entity.
22	Not applicable
23.1(b)	Not applicable
25.2	Not applicable
25.3	Not applicable

Section VI. CONTRACTUAL DETAILS

Reinsured	GOVERNMENT SERVICE INSURANCE SYSTEM
Period	<p>This Contract shall cover losses occurring during the 12 month period:</p> <p>Effective from: 01 January 2016 Expiring on: 31 December 2016</p> <p>Both days inclusive, Local Standard Time at the place where the loss occurs.</p> <p>Portfolio Run-Off</p> <p>The liability of the Reinsurers shall cease absolutely on the expiry date except in respect of any losses occurring during the period of this Contract the claims for which remain unsettled at that date. Nevertheless, it is agreed that if so requested by the Reinsured prior to the expiry date, the Reinsurers will be responsible for their share of losses occurring during the 12 month period following the expiry of this Contract, in respect of the business covered hereunder, in consideration of which the Reinsured will pay to the Reinsurers an additional premium as may be mutually agreed.</p>
Type	Property and Engineering Combined Risk and Catastrophe Excess of Loss
Class of Business	<p>This Contract shall cover all Property and Engineering business underwritten by the Reinsured.</p> <p>Business Interruption / Contingent Business Interruption cover only as a consequence of property damage</p> <p>Business Interruption extensions for suppliers and customers on a named basis only and sub-limited to 25% of Total Sum Insured and excluding Natural Perils outside Philippines.</p> <p>Excluding:</p> <ol style="list-style-type: none">1. Obligatory reinsurance and retrocession treaties.2. Facultative reinsurance on Excess of Loss basis.3. Direct or facultative acceptance of excess policies, layered policies, umbrella policies, first- loss policies and primary policies4. Retroactive covers in respect of known loss occurrences.5. Liability transferred to the Reinsured in respect of outstanding losses.6. Policies with a financial side and a risk side where the former predominates.

7. Liability arising out of delegation of underwriting authority to any third party.
8. Extra Contractual Obligations e.g. punitive, exemplary, compensatory or consequential damages.
9. Risks which can be assumed in a pool, including any share allocated to the Reinsured by the pool.
10. Oil and gas risks.
11. Livestock.
12. Crops.
13. Bonds and Financial Guarantees.
14. Aviation risks.
15. Marine risks.
16. Third Party Liability of any kind unless written in conjunction with and forming part of an Industrial All Risk policy (but maximum 10% of Total Sum Insured or maximum PHP10 million whichever is smaller)
17. Any liability arising out of, directly or indirectly resulting from or in consequence of, or any way involving:
 - a. asbestos, or
 - b. any actual or alleged asbestos related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure or potential exposure to asbestos
18. Captive Pools
19. Offshore Risks
20. DIC Policies

Specific Exclusions for Fire Business

1. Underground Mining
2. Plantation Risks
3. Manuscript Wordings are excluded (wordings to be either standard Fire wordings, ABI or Insurance Commission or PIRA approved wordings for All Risks).
4. Business Interruption due to Infectious or Contagious Diseases
5. Space and Space-related risks
6. Directors and Officers Liability
7. Employers Liability I Workmen's Compensation
8. Products Integrity I Products Tampering
9. Jewellers Block
10. Bankers Blanket Bond

Specific Exclusions for Engineering Business

1. Third Party Liability of any kind unless written in conjunction with and forming part of Contractors All Risks I Engineering All Risks or Boiler Explosion and to be sub limited to USD 4 million (or PHP equivalent)
2. Liquidated damages.
3. Workmen's Compensation and Employers Liability
4. Space and space-related risks.
5. Penalties.
6. Availability, delay, performance, output and resource guarantees.
7. Judgements, awards, settlements in USA, Canada, Australia.

8. Contractors All Risks I Engineering All Risks policies having a period of insurance longer than 60 months (including maintenance or defects liability period).
9. Contractors All Risks I Engineering All Risks policies having a maintenance or defects liability period of more than 24 months.
10. All types of delayed start-up covers, including but not limited to Advance Loss of Profits, loss of rent I interest.
11. Latent or inherent defects.
12. Decennial insurance.
13. Full design covers.
14. Marine-cum-erection policies.
15. Gas turbines above 100 Mega Watts.
16. Wind turbines above 100 Mega Watts.
17. Aircraft engines.
18. Prototype machinery.
19. Nuclear power stations.
20. Tunnels, mines, shafts, water wells.
21. Oil and gas drilling equipment including the risk of blow out.
22. Wet risks, i.e. in the vicinity of water (seashore, lakes, rivers, canals) such as breakwaters, jetties, wharves, harbour construction outfalls-etc.
23. Captive Pools
24. Offshore Risks
25. Cost Overruns
26. Pollution I Contamination, except liability arising from a sudden accidental, identifiable, unintended and unexpected event

**Territorial
Scope**

This Contract shall cover losses occurring on risks situated in the Republic of the Philippines.

Limits

The Reinsurers hereby agree to indemnify the Reinsured up to but not exceeding the Limit of Indemnity of:

1st Layer

PHP 200,000,000 Ultimate Net Loss Each and Every Loss Each and Every Risk or Each and Every Loss Occurrence
in excess of the Underlying Loss of
PHP 200,000,000 Ultimate Net Loss Each and Every Loss Each and Every Risk or Each and Every Loss Occurrence.

2nd Layer

PHP 600,000,000 Ultimate Net Loss Each and Every Loss Each and Every Risk or Each and Every Loss Occurrence
in excess of the Underlying Loss of
PHP 400,000,000 Ultimate Net Loss Each and Every Loss Each and Every Risk or Each and Every Loss Occurrence.



3rd Layer

PHP 1,000,000,000 Ultimate Net Loss Each and Every Loss Each and Every Risk or Each and Every Loss Occurrence
in excess of the Underlying Loss of
PHP 1,000,000,000 Ultimate Net Loss Each and Every Loss Each and Every Risk or Each and Every Loss Occurrence.

4th Layer

PHP 4,000,000,000 Ultimate Net Loss Each and Every Loss Occurrence
in excess of the Underlying Loss of
PHP 2,000,000,000 Ultimate Net Loss Each and Every Loss Occurrence.

Basis of Recovery

The Reinsured shall recover a loss from the Reinsurers on the following basis:

Risk: In the event of a loss affecting a single Risk only, such loss shall be recovered under the Risk category as specified under Limits.

Loss Occurrence: In the event of a Loss Occurrence affecting more than one Risk, such losses shall be aggregated and recovered under the Loss Occurrence category as specified under Limits. A single Risk loss which forms part of a Loss Occurrence shall not be isolated from the aggregation and recovered separately under the Risk category.

Reinstatement Provisions

In the event of loss or losses occurring under this Contract, it is hereby mutually agreed to reinstate this Contract to its full amount from the time of such loss or losses until the expiry of this Contract, however, limited to the number of reinstatements and at an additional premium, calculated as follows:

Layer 1:

Two full reinstatement(s), each at 100% additional premium as to time but pro rata as to amount reinstated.

Such additional premium shall be paid by the Reinsured when any loss or losses arising hereunder are settled.

If the loss settlement is made prior to the final adjustment of premium the reinstatement premium shall be calculated provisionally on the relevant deposit premium.



Layer 2:

Two full reinstatement(s), each at 100% additional premium as to time but pro rata as to amount reinstated.

Such additional premium shall be paid by the Reinsured when any loss or losses arising hereunder are settled.

If the loss settlement is made prior to the final adjustment of premium the reinstatement premium shall be calculated provisionally on the relevant deposit premium.

Layer 3:

One full reinstatement, at 100% additional premium as to time but pro rata as to amount reinstated.

Such additional premium shall be paid by the Reinsured when any loss or losses arising hereunder are settled.

If the loss settlement is made prior to the final adjustment of premium the reinstatement premium shall be calculated provisionally on the relevant deposit premium.

Layer 4:

One full reinstatement, at 100% additional premium as to time but pro rata as to amount reinstated.

Such additional premium shall be paid by the Reinsured when any loss or losses arising hereunder are settled.

If the loss settlement is made prior to the final adjustment of premium the reinstatement premium shall be calculated provisionally on the relevant deposit premium.

Losses hereunder are applied chronologically by date of loss. Notwithstanding the foregoing, the Reinsured may make collections in respect of losses which fall due for recovery on a settled basis, which may ultimately not be recoverable hereon when all losses are considered in chronological order.

Premium

Layer 1

Minimum and Deposit Premium: Php_____
 Adjustable at _____% of the Reinsured's Premium Income.

Layer 2

Minimum and Deposit Premium: Php_____
 Adjustable at _____% of the Reinsured's Premium Income.

Layer 3

Minimum and Deposit Premium: Php_____
 Adjustable at _____% of the Reinsured's Premium Income.



Layer 4

Minimum and Deposit Premium: Php _____

Adjustable at _____ % of the Reinsured's Premium Income

Definition of Premium Income

The term "Premium Income" shall mean the gross premium accounted for by the Reinsured during the period of this Contract on business protected hereunder, less only returned premiums and premiums paid for reinsurances recoveries under which inure to the benefit hereof.

Premium Payment Terms

First instalment at 50% of the MinDep	-	31 March 2016
Final Payment for the 50% Balance	-	31 May 2016

Conditions

This Contract shall be subject to the following Conditions:

a) **Definition of "One Risk"**

The Reinsured shall be the sole judge as to what constitutes one Risk and to which class or category the Risk belongs.

b) **Definition of Each and Every Loss**

The words "Each and Every Loss" as applied to one Risk shall be understood to mean each and every loss arising out of one and the same event.

c) **Duration and Extent of Loss Occurrence SR 460 (amended)**

1. For the purposes of this Contract, a Loss Occurrence shall include all insured losses which arise directly from the same cause and which occur during the same period of time and in the same area. Such cause is understood to be the peril which directly occasions the losses or where there are several perils which, in an unbroken chain of causation, have occasioned the losses, the peril which triggered the chain of causation.

For example, as long as they are covered by this reinsurance, losses occasioned by the perils set out below at letters a) to f) shall constitute single loss occurrences:

- a) storm due to an atmospheric disturbance usually so designated by a meteorological institute;
- b) hail and/or thunderstorms and/or tornadoes due to an atmospheric disturbance,
- c) earthquake, tsunami, volcanic eruption;
- d) flood by one and the same instance of high water which may have more than one peak and which may occur in one or more bodies of water;
- e) conflagration;



- f) strike, riot, civil commotion or violent demonstration occurring within the boundaries of one city, town or village.
2. If the number of loss occurrences cannot be determined according to paragraph 1, the following hour clause is then applied. A loss occurrence shall thus encompass a continuous period of time starting with the occurrence of the reinsured's first individual loss and lasting
- 24 hours for perils mentioned under 1(b)
 - 72 hours for perils mentioned under 1(a), (e) and (f)
 - 504 hours for perils mentioned under 1(d)
 - 168 hours for perils mentioned under 1(c) as well as those perils not referred to in paragraph 1 but covered by this Contract.

In the case of differing perils which are not connected to each other by an unbroken chain of causation, the applicable number of hours corresponds to those of the peril which has caused the largest amount of damages.

3. In the case of more than one loss occurrence, if it is impossible to allocate any losses, the reinsured shall allocate them to the loss occurrence whose cause is most likely to have occasioned them.

In case of uncertainty over scientific issues, the parties agree to seek expert advice from a neutral and recognized organization.

d) **Extended Expiration**

As regards coverage hereunder on a Loss Occurrence basis, if this Contract should expire or be terminated while a Loss Occurrence covered by this Contract is in progress, it is understood and agreed that subject to the other terms and conditions of this Contract, the Reinsurers hereon are responsible as if the entire loss or damage had occurred prior to the expiration or termination of this Contract, provided that no part of that Loss Occurrence is claimed against any renewal or replacement of this Contract.

e) **Ultimate Net Loss**

The term "Ultimate Net Loss" shall mean the sum actually paid by the Reinsured in respect of each and every loss, each and every Risk or Loss Occurrence, including expenses of litigation, if any, and all other loss expenses of the Reinsured, (excluding, however, office expenses and salaries of employees of the Reinsured) but salvages and recoveries, including recoveries from all other reinsurances, whether collected or not, other than underlying Excess of Loss reinsurances, if any, shall be first deducted from such loss to arrive at the amount of liability, if any, attaching hereunder.

Salvages

All salvages, recoveries or payments recovered or received subsequent to any loss settlement hereunder shall be applied as if recovered or received prior to the aforesaid settlement and all necessary adjustments shall be made by the parties hereto. Nothing in this clause shall be construed to mean that a recovery cannot be made hereunder until the Reinsured's Ultimate Net Loss has been ascertained.

f) Costs

In circumstances where the Reinsured considers it appropriate to contest an original claim, which if it is settled would, in the opinion of the Reinsured, result in a recovery hereunder, subject to the agreement of the Reinsurers prior to the Reinsured contesting the original claim, such legal costs may be recovered hereunder in the absence of any recovery arising from the original loss. Any recovery hereunder shall be subject to the application of the Underlying Loss of the Reinsured and Limit of Indemnity of the Reinsurers as established for this Contract.

g) Net Retained Lines

This Contract shall only protect that portion of any business covered hereunder which the Reinsured, acting in accordance with its established practices, retains net for its own account. Reinsurers' liability hereunder shall not be increased due to an error or omission which results in an increase in the Reinsured's normal net retention nor by the Reinsured's failure to reinsure in accordance with its normal practice, nor by the inability of the Reinsured to collect from any other reinsurers any amounts which may have become due from them whether such inability arises from the insolvency of such other reinsurers or otherwise.

h) Rates of Exchange

For the purpose of the calculation of the premium adjustment, all currencies other than the currency in which this Contract is written shall be converted into such currency at the Rate of Exchange used in the Reinsured's books or where there is a specific remittance for a loss settlement at the Rate of Exchange used in making such remittance as calculated in accordance with the Currency Fluctuation clause.

i) Currency Fluctuation

(A) In the event that the Reinsured sustains a loss in a single currency other than PHP the Reinsurers' liability shall be calculated as follows:-

- (i) The Underlying Loss and the Limit of Indemnity as expressed in PHP shall be converted into the appropriate currency at the Rate of Exchange applicable at the inception date of this Contract
 - (ii) The balance of any loss payment in excess of the original currency Underlying Loss shall at the option of the Reinsured be paid in the currency in which the loss was settled or shall be converted from the currency in which the loss was settled into PHP at the Rate of Exchange as used by the Reinsured and ruling on the date or dates of settlement of the loss by the Reinsured.
- (B) In the event that the Reinsured sustains a multi currency loss, the Reinsurers' liability and the apportionment of the Ultimate Net Loss attributable to each currency shall be calculated as follows:
- (i) The Underlying Loss and the Limit of Indemnity as expressed in PHP shall be converted into the appropriate currencies at the Rates of Exchange as indicated in (A)(i) above
 - (ii) To establish the percentage that each currency involved in the loss bears to the total loss, the content of the loss in each currency other than PHP shall be converted into PHP at the Rates of Exchange as indicated in (A)(i) above
 - (iii) The percentage that each currency loss calculated under (B)(ii) bears to the total loss in PHP shall be applied to the relevant currency Limit of Indemnity and Underlying Loss and the Ultimate Net Loss in each currency shall then be applied to the apportioned Limit of Indemnity and Underlying Loss in order to establish Reinsurers' loss in each currency.

The provisions of (A)(ii) shall then be applied to currencies other than PHP.

- (C) For the purpose of ascertaining the utilisation of the aggregate indemnity including reinstatements provided hereon, the original currency losses to this Contract shall be converted into PHP at the Rate of Exchange ruling at the inception date of this Contract. The aggregate amount of PHP losses so calculated shall be related to the PHP aggregate indemnity including reinstatements applicable hereon.

j) Notification of Claims

The Reinsured undertakes to advise the Reinsurers in writing as soon as possible of any circumstances likely to give rise to a claim hereunder, together with an estimate of the Reinsurers' liability and thereafter keep the Reinsurers fully informed of any developments regarding the claim.

k) Loss Settlements

All loss settlements made by the Reinsured, provided same are within the terms and conditions of the original policies in respect of the business covered hereunder and within the terms and conditions of this Contract, shall be binding upon the Reinsurers and amounts falling to the share of the Reinsurers shall be payable by them upon reasonable evidence of the amount paid being given by the Reinsured.

Claims Collection:

The Reinsured to have the option of collecting claims in United States Dollars (USD).

l) Inspection

The Reinsurers or representatives duly authorised by them may at any time during normal office hours of the Reinsured and at a place to be mutually agreed between the parties, inspect and take copies of such of the Reinsured's records and documents which relate to business covered under this Contract.

Notification of such visit shall normally be given two weeks in advance and, even in urgent cases, at least forty eight hours in advance.

The inspection shall last no longer than ten working days unless otherwise agreed by both parties.

A request to inspect the records and documents of the Reinsured shall clearly set out which records the Reinsured will be required to present for inspection and the name of persons who will be appointed to carry out the inspection.

It is agreed that the Reinsurers' right of inspection shall continue as long as either party has a claim against the other arising out of this Contract or whilst any liability remains hereunder. The Reinsurers or said representatives may arrange for copies to be made at the Reinsurers expense of the records which are the subject of the inspection.

A request to inspect the Reinsured's records and documents shall not entitle the Reinsurers to withhold any undisputed balances due to the Reinsured. If such undisputed balances due from the Reinsurers under this Contract have not been paid, the Reinsurers shall not have access to any of the Reinsured's records and documents until those balances have been fully paid.

All information and documents obtained by the Reinsurers or representatives, in relation to this Contract, shall be for the exclusive and confidential use of the Reinsurers and their legal advisors, auditors, retrocessionaires, third party service providers (who shall be subject to a confidentiality agreement made between the Reinsurer and such third party service provider), and any other party as may be required by statutory, legal or regulatory authority and shall not be copied or otherwise released or disclosed to any other party whatsoever or used for any other purpose without the written consent of the Reinsured.

Should arbitration or judicial proceedings be pending or initiated between the parties, the Reinsurers' right of inspection under this Contract shall not apply in respect of the matter under dispute. The arbitration tribunal or the court shall determine the extent of the Reinsurer's right of inspection for the matter under dispute.

m) Errors and Omissions

Any inadvertent error or omission on the part of either the Reinsured or the Reinsurers shall not relieve either party from any liability which would have attached to this Contract and such error or omission shall be rectified immediately upon discovery. Nevertheless, nothing in this Clause shall be held to override any of the terms and conditions of this Contract and no liability shall be imposed on either party greater than would have attached hereunder if the error or omission had not occurred.

n) Downgrade and Termination

Section 1

1.1 In the event of an explicit downgrading of any individual subscribing Reinsurer by Standard & Poor's Rating Group of 55 Water Street, New York, New York 10041, USA ("S&P") to an Insurer Financial Strength (IFS) rating inferior to that which was applied by S&P at the date on which that Reinsurer subscribed for its participation in this Contract, then at the sole option of the Reinsured the Reinsured may elect to cancel the participation of that individual subscribing Reinsurer. The effective date of such cancellation shall be determined at the sole discretion of the Reinsured provided that the date so determined shall not be earlier than the date upon which the relevant downgrading by S&P was announced in New York, USA., nor earlier than the date on which the Reinsured advises the Reinsurer in writing of its intention to cancel its participation.

- 1.2 Alternatively, for any individual subscribing Reinsurer who does not have an IFS rating from S&P but who had at the date on which that Reinsurer subscribed for its participation in this Contract a financial strength rating from A.M. Best Company of Ambest Road, Oldwick, New Jersey 08858 -0700 USA ("Bests") then at the sole option of the Reinsured the Reinsured may elect to cancel the participation of that individual subscribing Reinsurer in the event of an explicit downgrading by Bests to a financial strength rating inferior to that which was applied by Best at the date on which that Reinsurer subscribed for its participation in this Contract. The effective date of such cancellation shall be determined at the sole discretion of the Reinsured provided that the date so determined shall not be earlier than the date upon which the relevant downgrading by Bests was announced in New Jersey, USA., nor earlier than the date on which the Reinsured advises the Reinsurer in writing of its intention to cancel its participation.
- 1.3 In the event that a rating should be given to an individual subscribing Reinsurer by both S&P and Bests, the downgrading of the Reinsurer by either solely S&P or Bests or by both, shall invoke the provisions of either paragraph 1.1 and 1.2 stated above, as applicable.
- 1.4 For the avoidance of doubt the status of Credit Watch as defined by S&P or a rating modifier of 'u' (Under Review) applied to a rated Company as defined by Bests shall not, of itself, be construed as an explicit downgrading for the purposes of this clause.
- 1.5 With regard to any Lloyd's Underwriters participating as Reinsurers hereunder the rating applicable to each individual Lloyd's Underwriter shall be the S&P IFS rating applicable to the Society of Lloyd's as a whole at the commencement of this Contract.
- 1.6 If, for a Reinsurer with no rating by S&P or Bests, in the judgement of the Reinsured the security of such Reinsurer has materially deteriorated since the date of its subscription to this Contract, the Reinsured shall have the same right of cancellation as set out above.
- 1.7 The Reinsured may also elect to cancel the participation of any individual subscribing Reinsurer that ceases underwriting new business, or renewing existing risks, of the class of business which this Contract covers. The effective date of such cancellation shall be determined at the sole discretion of the Reinsured provided that the date so determined shall not be earlier than the date upon which the relevant Reinsurer ceased underwriting or renewing nor earlier than the date on which the Reinsured advises the Reinsurer in writing of its intention to cancel.

1.8 Notwithstanding the foregoing, for Reinsurers rated A minus or above by S&P or Best's at the date of subscription to this Contract, Section 1 of this clause will only operate when the deterioration in rating is to a level below A minus by either S&P or Best's; always in accordance with the provision stated in paragraph 1.3 of this clause.

1.9 For the avoidance of doubt, any cancellation in accordance with this clause shall be at the sole option of the Reinsured, and in the absence of such cancellation by the Reinsured, Reinsurers shall remain liable under this Contract.

Section 2

2.1 Furthermore, either party shall have the right to cancel this Contract immediately by giving the other party notice:

- a. if the performance of the whole or any part of this Contract is prohibited or rendered impossible de jure or de facto in particular and without prejudice to the generality of the preceding words in consequence of any law or regulation which is or shall be in force in any country or territory or if any law or regulation shall prevent directly or indirectly the remittance of any or all or any part of the balance or payments due to or from either party
- b. if the other party has become insolvent or unable to pay its debts or has lost the whole or at least 20% of its paid up capital or should reduce or call up any of its capital or should go into liquidation or should pass any resolution preliminary to liquidation or if a Receiver should be appointed
- c. if there is any material change in the ownership or control of the other party
- d. if the country or territory in which the Reinsured resides or, has its head office or, is incorporated shall be involved in armed hostilities with the country or territory in which the Reinsurer resides or, has its head office or is incorporated, whether war be declared or not
- e. if the other party shall have failed to comply with any of the terms and conditions of this Contract

Section 3

3.1 All notices of cancellation served in accordance with any of the provisions of sections 1 and 2 above shall be by letter, facsimile, email or any other means of instantaneous communication that provides a permanent record of such communication, and shall be deemed to be served upon despatch or where communications between the parties are interrupted upon attempted despatch.

3.2 All notices of cancellation served in accordance with any of the provisions of sections 1 and 2 above shall be addressed or electronically communicated to the party concerned at its Head Office or at any other address previously designated by that party or the electronic address used for the purposes of this Contract.

Section 4

4.1 After the date of cancellation, under either sections 1 or 2 above, the liability of the Reinsurers hereunder shall cease but for the avoidance of doubt Reinsurers shall remain liable for all losses in respect of the Contract arising before the date of cancellation.

4.2 In the event of this Contract being cancelled at any date other than the expiry date stated herein then the premium due to the Reinsurers shall be calculated upon the Premium Income of the Reinsured up to the date of cancellation or pro rata temporis of the minimum premium as stated herein, whichever is the greater, or pro rata temporis of the flat premium, if applicable. Premium shall include Reinstatement Premium, where applicable.

Termination Amendment

Notwithstanding the provisions of Section 2 item (a) or (e) above, the right of either party to invoke the termination of this Contract shall not arise solely due to either party being unable to fulfil their obligations of the whole or any part of this Contract, due to any sanctions law or regulation applicable to either party which is in force and prohibits such action.

o) Mode of Execution

This Contract and any amendments or changes thereto shall be executed by the Reinsurers by the following and no other means:

- (a) an original written ink signature of paper documents (or a true representation of a signature, such as a rubber stamp);
- (b) a facsimile or scanned copy showing the original written ink signature of paper documents;
- (c) electronic signature technology employing computer software and a digital signature or digitiser pen pad to capture a person's handwritten signature in such a manner that the signature is unique to the person signing, is under the sole control of the person signing, is capable of verification to authenticate the signature and is linked to the document signed in such a manner that if the data is changed, such signature is invalidated;

(d) a unique authorisation provided via a secure electronic trading platform.

The use of any one or a combination of these methods of execution shall constitute a legally binding and valid signing of this Contract. Any amendments or changes to the Contract shall be executed in the same manner.

This Contract or any amendments or changes thereto, may be executed in one or more of the specified methods, each of which, when duly executed, shall be deemed as original.

p) Amendments

Amendments or changes to this Contract can only be made by endorsement(s) or by e-endorsement(s), which has been produced by the Intermediary and it shall be binding upon both parties when it has been executed by the Reinsurers (except where an alternative method has been agreed between the parties concerned).

q) Personal Data Protection

The parties to this Contract acknowledge and agree that where it is necessary for them to collect, use, disclose or store Personal Information for the purposes of this Contract; they will do so in accordance with the relevant Personal Data legislation or regulatory requirements, as applied to them, in respect of the business covered under this Contract.

To the extent permitted by the applicable law, each party shall notify the other party immediately upon becoming aware of any such breaches related to Personal Data hereunder.

r) Special Extension Clause

1. (a) Should a catastrophic event (as defined below) occur during the last month of this Agreement and should preparation necessary to effect the renewal of this Agreement have not been concluded, the period of this Agreement shall be automatically extended for a period of one month, subject to the provisions of paragraph 2. below.

(b) If preparation necessary to effect the renewal of this Agreement have not been concluded by the end of the one-month extension period provided for above then this Agreement shall be extended for a further period of one month.

- (c) If at the end of the further one-month extension period provided for in 1. (b) above negotiations necessary to effect the renewal of this Agreement have still not been concluded then this Agreement shall be extended for a third period of one month, after which there will be no further extension without the express agreement of the parties.
- 2. This agreement will not be extended as provided for in paragraphs 1. (a), (b) or (c) above if the Reinsured notifies the Reinsurers that an extension, or further extension, is not required, which the Reinsured will do without unreasonable delay if they are satisfied that the catastrophic event does not interrupt communications between the parties and does not affect their ability to access and transmit data necessary to negotiate renewal of this Agreement, or if such circumstances, having existed, cease to exist.
- 3. (a) As consideration for any extension under this clause there will be an additional premium which shall be calculated at daily pro rata of the annual premium for this Agreement and added to the premium for the original 12 month period for this Agreement.
(b) Any reinstatement premium will be calculated on 100% of the annual premium for the original 12 month period of this Agreement, and calculated pro-rata as to the fraction of the limit of liability reinstated.
- 4. (a) For the purposes of this clause, a catastrophic event shall be considered by the Reinsured to be circumstances where the Reinsured has no regular or reliable means of external communication or any reasonable access to office systems and data and is therefore prevented from engaging in their normal renewal discussions.
(b) A month is defined as a calendar month.

s) **Intermediary**

Both the Reinsured and the Reinsurers agree that all notices, correspondence and payments to either party in connection with this Contract shall be forwarded through the Intermediary for this Contract except claims. In the event of a cash call, the reinsurers will pay directly to the Reinsured.

Exclusions

This Contract shall also be subject to the following exclusion clauses:

a) **Transmission and Distribution Lines Exclusion Clause:-**

This Contract shall exclude losses in respect of overhead transmission and distribution lines and their supporting structures other than those on or within 1,000 metres of the insured premises.



It is understood and agreed that public utilities extension and/or supplier's extension and/or contingent business interruption coverage are not subject to this exclusion, provided that these are not part of a transmitters' or distributors' policy.

b) War and Civil War Exclusion Clause:-

This Contract does not cover any liability assumed by the Reinsured on loss or damage directly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities or war-like operations (whether war be declared or not), civil war, popular rising, insurrection, revolution, rebellion, military power, all as may be defined in the original policies.

This Contract shall also be subject to the following market exclusions which shall apply and form part of the contractual documentation hereon, and copies of which will be supplied to the Reinsured and/or Reinsurers if requested:

- a) Nuclear Energy Risks Exclusion Clause (Reinsurance) (1994) (Worldwide excluding USA & Canada) NMA 1975a.
- b) Terrorism Exclusion Endorsement (Reinsurance) NMA 2921.
- c) Seepage and Pollution Exclusion Clause NMA 1685.

**Special
Acceptances**

Special acceptance of risks excluded from the scope of this Contract to be agreed by the Overall Slip Leader on behalf of all reinsurers hereon and to be advised to Reinsurers at renewal of this Contract.

Reinsurance protection is afforded hereunder in respect of the run off period of any risk that is excluded with effect from inception of this Contract, which would have otherwise been recoverable under the conditions of the expiring Contract, subject to the Limits of Indemnity and Underlying Loss applicable to this Contract.

Notices

Terminology Clarification Notice

For the purposes of this Contract, where established market referenced clauses are included herein, terminology is maintained as utilised in such issued clauses. However, where necessary, the interpretation of the terminology as stated in the text of the referenced clause shall be considered within the context of this Contract.

**Dispute
Resolution**

Where any dispute or difference between the parties arising out of or in connection with this Contract including formation and validity and whether arising during or after the period of this Contract has not been settled through negotiation, both parties agree to try in good faith to settle such dispute by non binding mediation, before resorting to arbitration in the manner set out below.



Arbitration

Arbitration Clause

All matters in difference between the parties arising under, out of or in connection with this Contract, including formation and validity, and whether arising during or after the period of this Contract, shall be referred to an arbitration tribunal in the manner hereinafter set out.

Unless the parties agree upon a sole arbitrator within fourteen days of one receiving a written request from the other for arbitration, the claimant (the party requesting arbitration) shall appoint its arbitrator and give written notice thereof to the respondent. Within thirty days of receiving such notice the respondent shall appoint its arbitrator and give written notice thereof to the claimant, failing which the claimant may apply to the appointor hereinafter named to nominate an arbitrator on behalf of the respondent.

Before they enter upon a reference the two arbitrators shall appoint a third arbitrator. Should they fail to appoint such a third arbitrator within thirty days of the appointment of the respondent's arbitrator then either of them or either of the parties may apply to the appointor for the appointment of the third arbitrator. The three arbitrators shall decide by majority. If no majority can be reached the verdict of the third arbitrator shall prevail. He shall also act as chairman of the tribunal.

Unless the parties otherwise agree the arbitration tribunal shall consist of persons (including those who have retired) with not less than ten years' experience of insurance or reinsurance as persons engaged in the industry itself or as lawyers or other professional advisers. Under no circumstances shall any member of the arbitration tribunal have any interest in either party to this Contract or in the outcome of the arbitration.

The arbitration tribunal shall, so far as is permissible under the law and practice of the seat of arbitration, have power to fix all procedural rules for the holding of the arbitration including discretionary power to make orders as to any matters which it may consider proper in the circumstances of the case with regard to pleadings, discovery, inspection of the documents, examination of witnesses and any other matter whatsoever relating to the conduct of the arbitration and may receive and act upon such evidence whether oral or written strictly admissible or not as it shall in its discretion think fit.

The Appointor shall be the Chair or the equivalent for the time being of the International Chamber of Commerce Philippines or equivalent body of the country in which the Reinsured is incorporated or has its head office. If for any reason such persons decline or are unable to act, then the appointor shall be the Judge of the appropriate Courts having jurisdiction at the seat of arbitration.

All costs of the arbitration shall be determined by the arbitration tribunal who may, taking into account the law and practice of the seat of arbitration, direct to and by whom and in what manner they shall be paid.

The seat of the arbitration shall be Manila, Philippines and the arbitration tribunal shall apply the Law of Philippines as the proper law of this arbitration agreement and of the above Contract.

The award of the arbitration tribunal shall be in writing and binding upon the parties who covenant to carry out the same.

If either of the parties shall fail to carry out any award the other may apply for its enforcement to a court of competent jurisdiction in the territory in which the party in default is domiciled or has assets or carries on business.

Choice of Law and Jurisdiction

Law and Jurisdiction Clause

This Contract shall be governed by and is construed in accordance with the law of the Philippines in all respects.

Reinsurer Contract Documentation

This document details the Contract terms entered into by the Reinsurers and constitutes the Contract Document.

The endorsement(s) or e-endorsement(s) signed by Reinsurers shall form the evidence of the changes agreed.

Reinsurer's Liability

(Re)insurer's Liability Clause – LMA3333

(Re)insurer's liability several not joint

The liability of a (re)insurer under this contract is several and not joint with other (re)insurers party to this contract. A (re)insurer is liable only for the proportion of liability it has underwritten. A (re)insurer is not jointly liable for the proportion of liability underwritten by any other (re)insurer. Nor is a (re)insurer otherwise responsible for any liability of any other (re)insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by a (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp. This is subject always to the provision concerning "signing" below.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is a (re)insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other (re)insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Proportion of liability

Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its "written line".

Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a schedule is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the schedule will prevail.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require, this should be read as a reference to contracts in the plural.

Basis of Written Lines

Percentage of Whole

Basis of Signed Lines

Percentage of Whole

Written Lines

In a co-reinsurance placement, following Reinsurers may, but are not obliged to, follow the premium charged by the Overall Slip Leader.

Reinsurers may not seek to guarantee for themselves terms as favourable as those which others subsequently achieve during the placement.



Signing Pages

This Contract incorporates the following:

1. A Reinsurer signing page for each Reinsurer participating in this Contract, signature of which binds the Reinsurer and the Reinsured to the terms and conditions of this Contract.

Where the Reinsurer provides acceptance of a share by alternative correspondence, this shall constitute their formal signature until superseded by the signing page.

For the purposes of the application of (Re)Insurers Liability Clause ~ LMA3333, each Reinsurer signed line is recorded on the Reinsurer's signing page and not in a separate schedule appended to this Contract.

2. A Reinsured signing page, signature of which provides confirmation by them that they agree to the terms and conditions of this Contract. This shall not override the binding nature of the provisions of point 1.

Information

1. Estimated Premium Income – **Php1,400,000,000.00**
2. Minimum Deposit Premium is 80% of estimated earned premium

Section VII. Bidding Forms

ELIGIBILITY AND TECHNICAL FORMS

FORM NO. 1

[Bidder's Letterhead]

AFFIDAVIT OF APPLICATION

I, _____ (full name), of legal age, Filipino, with residence at _____, under oath depose and state that : (1) All information in this Applicant's Confidential Application of Statement Eligibility, including the annexes and enclosures thereto, are true and correct, (2) I hold myself liable for any legal consequence for any misrepresentation or false statement knowingly made therein, and (3) I hold the members of the GIBAC and Secretariat, free and harmless from any liability whatsoever in relation to the appreciation thereof.

In witness whereof, I have hereunto affixed my signature this ____ day of _____, _____ at _____.

(Declarant/Affiant)

Republic of the Philippines)
Province/City of _____)

SUBSCRIBED AND SWORN to before me this ____ day of _____, _____ at _____, affiant having exhibited his/her Community Tax Certificate No./Passport No. _____ issued on _____ at _____.

NOTARY PUBLIC
PTR No. _____
Until _____

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of _____.

DRY SEAL

- * A similar attestation may be used abroad provided that the same is authenticated by a duly authorized Consular Office of the Philippines.



SWORN STATEMENT

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S.

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

- (1) I am the duly authorized and designated representative of *[Name of Bidder]* with office address at *[address of Bidder]*;
- (2) That if awarded, *[Name of Bidder]* will retain *[amount in words and figures]* equivalent to *[percentage of retention]*:

Layer 1
Layer 2
Layer 3
Layer 4

- (3) That the *[Name of Treaty]* evidenced by the submitted Treaty Slip as part of the eligibility documents for this bidding covers the risk indicated in Section VI. Contractual Details of the Bidding Documents for the *[Name of Project ex. Procurement for the Reinsurance of the Industrial All Risk cover of Government Agency]*; and
- (4) I execute this Affidavit in compliance with the bid requirements of the Government Service Insurance System and for whatever legal purpose it may serve.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ at _____, Philippines.

Affiant

SUBSCRIBED AND SWORN to before me this _____ (date) _____, at _____ (place) affiant having exhibited to me his _____ (valid government-issued ID)

Notary Public

Doc. No. _____
Page No. _____
Book No. _____

Series of _____



TECHNICAL DOCUMENTS

Form under Item No. 1(d)

[Bidder's Letterhead]

Bid-Securing Declaration Form

REPUBLIC OF THE PHILIPPINES)
CITY OF _____) S.S.

X-----X

BID-SECURING DECLARATION

Title of the Project: _____

To: *[Insert name and address of the Procuring Entity]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Bid Security, which may be in the form of a Bid-Securing Declaration.

2. I/We accept that: (a) I/we will be automatically disqualified from bidding for any contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and, (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Bid Securing Declaration³, if I/we have committed any of the following actions:

(i) Withdrawn my/our Bid during the period of bid validity required in the Bidding Documents; or

(ii) Fail or refuse to accept the award and enter into contract or perform any and all acts necessary to the execution of the Contract, in accordance with the Bidding Documents after having been notified of your acceptance of our Bid during the period of bid validity.

3. I/We understand that this Bid-Securing Declaration shall cease to be valid on the following circumstances:

(a) Upon expiration of the bid validity period, or any extension thereof pursuant to your request;

(b) I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right;

(c) I am/we are declared as the bidder with the Lowest Calculated and Responsive Bid/Highest Rated and Responsive Bid, and I/we have furnished the performance security and signed the Contract.



IN WITNESS WHEREOF, I/We have hereunto set my/our hand/s this ____ day of [month] [year] at [place of execution].

**[Insert NAME OF BIDDER'S
AUTHORIZED REPRESENTATIVE]
[Insert signatory's legal capacity]
Affiant**

SUBSCRIBED AND SWORN to before me this __ day of [month] [year] at [place of execution], Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her [insert type of government identification card used], with his/her photograph and signature appearing thereon, with no. _____ and his/her Community Tax Certificate No. _____ issued on _____ at _____.
Witness my hand and seal this __ day of [month] [year].

NAME OF NOTARY PUBLIC

Serial No. of Commission _____
Notary Public for _____ until _____
Roll of Attorneys No. _____
PTR No. __, [date issued],[place issued]
IBP No. __, [date issued], [place issued]

Doc. No. ____
Page No. ____
Book No. ____
Series of ____

Form under Item No. 4

[Bidder's Letterhead]

LETTER OF CONFORMITY

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S.

This is to certify that _____ [Name of Bidder] _____, located at _____ conforms to the Contractual Details as enumerated and specified in Section VI of the bidding documents for the [Name of Project ex. 2016 GSIS Property & Engineering Risk and Catastrophe Excess of Treaty] and the acceptance of this reinsurance placement shall remain in conformity thereto for the duration of the reinsurance contract.

Further, the reinsurance placement and acceptance of each of the reinsurers/ retrocessionaires for the [Name of Project ex. 2016 GSIS Property & Engineering Risk and Catastrophe Excess of Treaty] are likewise in accordance with Section VI – Contractual Details of the bidding documents for the [Name of Project ex. 2016 GSIS Property & Engineering Risk and Catastrophe Excess of Treaty] and shall remain in conformity thereto for the duration of the reinsurance contract.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ at _____, Philippines.

Affiant

SUBSCRIBED AND SWORN to before me this _____ (date) _____, at _____ (place) affiant having exhibited to me his _____ (valid government-issued ID)

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____



Form under Item No. 5

[Bidder's Letterhead]

OMNIBUS SWORN STATEMENT

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S.

AFFIDAVIT

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

1. **Select one, delete the other:**

If a sole proprietorship: I am the sole proprietor of *[Name of Bidder]* with office address at *[address of Bidder]*;

If a partnership, corporation, cooperative, or joint venture: I am the duly authorized and designated representative of *[Name of Bidder]* with office address at *[address of Bidder]*;

2. **Select one, delete the other:**

If a sole proprietorship: As the owner and sole proprietor of *[Name of Bidder]*, I have full power and authority to do, execute and perform any and all acts necessary to represent it in the bidding for *[Name of the Project]* of the *[Name of the Procuring Entity]*;

If a partnership, corporation, cooperative, or joint venture: I am granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the *[Name of Bidder]* in the bidding as shown in the attached *[state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate issued by the corporation or the members of the joint venture)]*;

3. *[Name of Bidder]* is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board;
4. 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;
5. *[Name of Bidder]* is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

6. **Select one, delete the rest:**

If a sole proprietorship: I am not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

If a partnership or cooperative: None of the officers and members of [Name of Bidder] is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

If a corporation or joint venture: None of the officers, directors, and controlling stockholders of [Name of Bidder] is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

7. [Name of Bidder] complies with existing labor laws and standards; and
8. [Name of Bidder] is aware of and has undertaken the following responsibilities as a Bidder:
- a) Carefully examine all of the Bidding Documents;
 - b) Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
 - c) Made an estimate of the facilities available and needed for the contract to be bid, if any; and
 - d) Inquire or secure Supplemental/Bid Bulletin(s) issued for the [Name of the Project].
9. [Name of Bidder] 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 government in relation to any procurement project or activity.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ at _____, Philippines.

Bidder's Representative/ Authorized Signatory

SUBSCRIBED AND SWORN to before me this _____ (date), at _____ (place) affiant having exhibited to me his _____ (*valid government-issued ID*)

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

[Bidder's Letterhead]

**SECRETARY'S CERTIFICATE
(For Corporations or Corporate Members of Joint Venture)**

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S.

KNOW ALL MEN BY THESE PRESENTS

I, _____, (full name), Filipino, of legal age, and with postal address at _____, under oath, depose and say that:

I am the Corporate Secretary of _____ (Name of Firm), a _____ (type of organization) duly organized and existing under and by virtue of the laws of the _____ (country), with principal office at _____ (firm's address).

I hereby certify that the information relative to the names of the major stockholders and directors, number of shares subscribed, amount subscribed and amount paid-up are true and correct and are in accordance with the stock and transfer books of the Corporation under my custody. **(please attach the names of directors and major stockholders to include number of shares subscribed, amount subscribed and paid-up)**

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ at _____, Philippines.

Affiant

SUBSCRIBED AND SWORN to before me this _____ (date), at _____ (place) affiant having exhibited to me his _____ (valid government-issued ID)

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____



Form under Item No. 6

SWORN STATEMENT

REPUBLIC OF THE PHILIPPINES)

CITY/MUNICIPALITY OF _____) S.S.

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

- (1) I am the duly authorized and designated representative of *[Name of Bidder]* with office address at *[address of Bidder]*;
- (2) That *[Name of Reinsurer]* shall furnish GSIS true copies of the Underwriters Acceptance Slips/Cover Notes of all participating reinsurers included in the submitted written lines within five (5) days from receipt of the award of the Reinsurance of the *[Project Name]*.
- (3) I execute this Affidavit in compliance with the bid requirements of the Government Service Insurance System and for whatever legal purpose it may serve.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ at _____, Philippines.

Affiant

SUBSCRIBED AND SWORN to before me this _____ (date) _____, at (place) _____ affiant having exhibited to me his _____ (*valid government-issued ID*)

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____



[Bidder's Letterhead]

Financial Proposal Summary

Date: _____

To: *[name and address of Procuring Entity]*

Gentlemen and/or Ladies:

Having examined the Bidding Documents including Bid Bulletin Numbers *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to perform 2016 GSIS Property & Engineering Combined Risk and Catastrophe Excess of Loss Treaty in conformity with the said Bidding Documents for the sum of *[total Bid amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

Breakdown of the Total Bid Price

Layers	Premium Rate	Gross Premium (100%)	MinDep Premium (80%)
1 - 200 M xs 200 M			
2 - 600 M xs 400 M			
3 - 1 B xs 1 B			
4 - 4 B xs 2 B			

TOTAL

If our Bid is accepted, we undertake to provide a performance security in the form, amounts, and within the times specified in the Bidding Documents.

We agree to abide by this Bid for the Bid Validity Period specified in **BDS** provision for **ITB** Clause 18.2 and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and Address of Agent	Amount and Currency	Purpose of Commission or gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____



Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your Notice of Award, shall be binding upon us.

We understand that you are not bound to accept the lowest or any Bid you may receive.

We certify/confirm that we comply with the eligibility requirements as per **ITB** Clause 12 of the Bidding Documents.

Dated this _____ day of _____ 20_____.

[Signature]

[in the capacity of]

Duly authorized to sign Bid for and on behalf of _____



EXCESS OF LOSS TREATY SERVICE AGREEMENT

“This Agreement is made and executed on _____ at Pasay City, Philippines, by and between GSIS and the Winning Bidder and shall form part of the 2016 GSIS Property & Engineering Combined Risk and Catastrophe Excess of Loss Treaty:”

The **Government Service Insurance System (GSIS)**, a social insurance institution created pursuant to the provisions of Commonwealth Act No. 186 as amended, and operating under its present charter, Republic Act No. 8291, otherwise known as the GSIS Act of 1997, with principal office at the Financial Center, Roxas Boulevard, Pasay City, Metro Manila, herein represented by its President and General Manager, **ROBERT G. VERGARA**, who is duly authorized to represent it in this transaction, hereinafter referred to as the “GSIS”; and

The _____, a company organized in accordance with the laws of the _____, and having its office at _____, herein represented by its _____, who is duly authorized to represent it in this transaction, hereinafter referred to as the “_____”.

RECITALS

_____ has won the final award in an open, competitive, and transparent bidding process for the Reinsurance of Property & Engineering Combined Risk and Catastrophe Excess of Loss Treaty of the Government Service Insurance System (GSIS);

1. Scope of Reinsurer/Broker Services

1.1 Insurance technical advice and service

1.1.1 provide quarterly update on reinsurance market conditions;

1.1.2 at least once every three (3) months, analyze and present to the GSIS the result of the Catastrophe risk modelling;

1.2 Claims advice and service

1.2.1 assist GSIS in filing and presenting its claims;

1.2.2 ensure prompt settlement of cash calls particularly on catastrophic and large claims; and

1.2.3 provide periodic updates on status of GSIS claims/cash calls;

2. Termination

2.1 In the event that the reinsurer shall fail to perform the treaty and its obligation under this Service Agreement, the GSIS shall have the right to terminate the Service Agreement for cause and shall have the right to proceed against the performance security posted for the treaty.

2.2 This Agreement shall take effect on the inception time and date of the Treaty Contract and shall remain effective, unless sooner terminated for failure of _____ to perform its obligations, throughout the effectivity of the Treaty Contract, including extensions thereof.

3. Compliance with Laws

The parties undertake to comply with the provisions of all applicable national, provincial and local laws, ordinances and regulations of the Republic of the Philippines and any other country in which activities are being carried out under this Agreement.

4. Entire Agreement; Amendment

This Agreement constitutes the entire Agreement of the parties. No change, modification, alteration, amendment or addition to any provision or waiver of any provision of this Agreement shall be binding unless agreed to in writing by the GSIS and the _____.

5. No Guarantee of Renewal

Nothing in this Agreement shall be construed as giving _____ the right to be automatically included in the list of participants in the Bidding for the renewal of the treaty contract.

6. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the Republic of the Philippines.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first written above and agree that such date is the effective date of this Agreement.

For GSIS:

For the Reinsurer/Broker:

ROBERT G. VERGARA
President & Gen. Manager

Date:

Date:

WITNESS:

WITNESS:

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
CITY OF PASAY) S.S.

BEFORE ME, this day appeared:

	ID No.	Issued on	Issued At
1. Robert G. Vergara	_____	_____	_____
2. _____	_____	_____	_____

to me known and known to me to be the same persons who signed and executed the foregoing _____ and each acknowledged to me that the same is executed as his free and voluntary act and deed and that the entity represented for the purposes therein set forth.

I further certify that said document consists of _____ pages including this one and signed by the above-named parties and the witness on each and every page thereon.

IN WITNESS WHEREOF, I have hereunto affixed my signature and notarial seal in _____, this _____ (date) _____.

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