

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

CONTRACT
FOR THE SUPPLY, DELIVERY, INSTALLATION AND COMMISSIONING OF SEVENTY ONE (71) UNITS GENERATOR SETS WITH AUTOMATIC TRANSFER SWITCH (ATS) FOR PORT MANAGEMENT OFFICES

KNOW ALL MEN BY THESE PRESENTS:

This Contract made and entered into this 03 APR 2019 2019, in Manila, Philippines, by and between:

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

- and -

JULIUS VINCENT R. CATANIAG (TIN No. 921-809-275-000), of legal age, Filipino, single, with business and postal address at Davao Street, Aluba Subdivision, Macasandig, Cagayan de Oro City, Misamis Oriental, doing business under the firm name/style of **MINDANAO LABORATORY SERVICES**, duly registered with the Department of Trade and Industry, under Certificate of Registration No. 03672100, a copy of which is hereto attached and made an integral part hereof as Annex "A", represented by **MANUEL B. RODAJE, JR.**, per Special Power of Attorney, hereto attached as Annex "B", and hereinafter referred to as "SUPPLIER".

WITNESSETH:

WHEREAS, in accordance with Republic Act No. 9184 and its 2016 Revised Implementing Rules and Regulations, the PPA Head Office Bids and Awards Committee for the Procurement of Goods and Consultancy Services (BAC-PGCS), posted on PhilGEPS and PPA Website as well as on its bulletin board an Invitation to Bid for the Supply, Delivery, Installation and Commissioning of Seventy One (71) Units Generator Sets with Automatic Transfer Switch (ATS) for Port Management Offices;



WHEREAS, in response to the said advertisement, two (2) bidders submitted their respective bids for the foregoing project;

WHEREAS, after the opening of bids on 11 February 2019 and the conduct of bid evaluation and post-qualification, the bid submitted by the SUPPLIER was declared as the Single Calculated and Responsive Bid in the amount of **FOUR HUNDRED THREE MILLION FOUR HUNDRED NINETY NINE THOUSAND NINE HUNDRED NINETY NINE AND 99/100 PESOS (P403,499,999.99)**, Philippine Currency;



WHEREAS, pursuant to BAC-PGCS Resolution No. 008-2019 Series of 2019, award of contract was made to the SUPPLIER in a Notice of Award dated 28 February 2019, in the amount of **FOUR HUNDRED THREE MILLION FOUR HUNDRED NINETY NINE THOUSAND NINE HUNDRED NINETY NINE AND 99/100 PESOS (P403,499,999.99)**, after submission of the required documents within the prescribed period and compliance to the conditions stipulated in the IRR;

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

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

MINDANAO LABORATORY SERVICES
BY: 
WITNESS: 
MANUEL B. RODAJE, JR.
Authorized Representative

PHILIPPINE PORTS AUTHORITY
BY: 
WITNESS: 
MARK JONES PALOMAR
Chairperson, HO-BAC-PGCS

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

**ARTICLE I
CONTRACT DOCUMENTS**

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

- a. Bid Documents issued by PPA;
- b. Addenda and/or Supplemental/Bid Bulletins, if any;
- c. SUPPLIER's Bid Proposal including all the documents/statements contained therein;
- d. Performance Security;
- e. Notice of Award;
- f. Other Contract Documents that may be required by existing law and/or the PPA such as:
 - 1. Abstract of Bids;
 - 2. Approved BAC Resolution Recommending Award of the Contract; and
 - 3. Certificate of Availability of Funds (CAF)

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

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

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

2.01 The SUPPLIER, in consideration of the payment to be made by PPA as stated in the Contract Documents and this Contract, hereby covenants to execute and complete the Supply, Delivery, Installation and Commissioning of Seventy One (71) Units Generator Sets with Automatic Transfer Switch (ATS) for Port Management Offices (PMOs), in conformity in all respects with the provisions of this Contract and Contract Documents, with the following Technical Specifications hereto attached as "Annex C."

2.02 The SUPPLIER agrees to supply and deliver the equipment within ninety (90) calendar days from the receipt of the Notice to Proceed at the warehouse within Metro Manila, for inspection of Head Office representatives and delivery, installation and commissioning at the PMO's within thirty (30) calendar days after inspection and acceptance by Head Office representatives. The areas of deployment are as follows:

DEPLOYMENT

	PMO	Capacity	Qty.	Deployment
1	PMO Bataan	30KVA	1	TMO Casiguran
		60KVA	1	TMO Capinpin
2	PMO NCR North	220KVA	1	PMO NCR North
3	PMO NCR South	1000KVA	1	Baseport
		85KVA	1	TMO Pasig
		55KVA	1	PTB Pasig
		50KVA	1	VRMU (Customs)
4	PMO MarQuez	250KVA	1	Baseport
5	PMO Mindoro	300KVA	6	1-Baseport and 5 TMO's, Namely:
		90KVA	2	. Bulalacao
		150KVA	4	. Lubang . Roxas . San Jose

MINDANAO LABORATORY SERVICES
 BY: 
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Witness:
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 Chairperson, HC-BAC-PGCS

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 BY: 
 JAY DANIEL R. SANTAGO
 General Manager

				. Abra de Ilog . Puerto Galera
6	PMO Palawan	108KVA	1	Baseport
		75KVA	1	TMO Coron
		45KVA	5	. TMO El Nido . TMO Brooke's Point . TMO Cuyo . TMO Buliluyan . TMO Taytay
7	PMO Masbate	250KVA	1	Baseport
8	PMO Panay/Guimaras	10KVA	1	Baseport
		10KVA	1	TMO Sibunag
9	PMO Negros Occ./Banago/Bacolod /Bredco	500KVA	1	Baseport
		100KVA	2	. TMO Danao . TMO San Carlos
		50KVA	2	. TMO Hinoba-an, . TMO Bredco
10	PMO Negros Oriental/Siquijor	150KVA	2	Baseport
		100KVA	1	TMO Siquijor
		80KVA	3	. TMO Tandayag . TMO Larena . TMO Guihulngan
11	PMO Bohol	750KVA	2	. Tagbilaran (Baseport) . TMO Jagna
		250KVA	1	TMO Tubigon
		125KVA	1	TMO Ubay
			1	TMO Talibon
			1	TMO Getafe
			1	TMO Loon
12	PMO Eastern Leyte/Samar	10KVA	1	Port of San Jose
		150KVA	1	Port of Maguino-o
13	PMO Western Leyte/Biliran	150KVA	1	Baseport
		75KVA	5	. TMO Baybay . TMO Hilongos . TMO Maasin . TMO Palompon . TMO Naval
14	PMO Misamis/CDO	300KVA	3	. Baseport . TMO Camiguin . TMO Balbagon
15	Lanao del Norte/Iligan	50KVA	1	TMO Tubod
16	PMO Misamis Occ./Ozamiz	300KVA	1	Baseport
		75KVA	1	TMO Plaridel
17	PMO Surigao	30KVA	3	. Hayanggabon Port . Del Carmen Port . Cantilan Port
18	PMO Socsargen	175KVA	1	Baseport
		150KVA	2	. TMO Sarangani . TMO Sultan Kudarat
19	PMO Zamboanga	853KVA	1	Baseport
20	PMO Zamboanga del Norte	500KVA	1	Baseport
TOTAL NO. OF UNITS			71	

2.03 The SUPPLIER also warrants the following:

- Quarterly preventive maintenance service within 2- year warranty period.
- Repair services shall be available during office hours. Response time shall be within twenty-four (24) hours from notice by PPA.

MINDANAO LABORATORY SERVICES

Witness:

BY:

MANUEL B. RODRIGUEZ, JR.
Authorized Representative

Witness:

BY:

MARK JOHN S. PALOMAR
Chairperson, HO-BAC-PGCS

JAY DANIEL K. SANTIAGO
General Manager

Witness:
YAN...
International Partner

PHILIPPINE PORTS AUTHORITY

c. Provisions:

- . Set of tools, operating and parts manual
 - . Initial diesel in tank for testing, upon delivery of Genset
 - . Cable during installation : At least ten (10) meters wiring/cables per unit (if distance of unit to main breaker exceeds 10 meters, PPA will shoulder cost of excess.)
- d. One (1) year warranty for manufacturing defects from the date of receipt of the Certificate of Acceptance.
- e. Two (2) years warranty for parts and services from the date of receipt of the Certificate of Acceptance.

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

**ARTICLE III
CONSIDERATION**

3.01 For and in consideration of the full, satisfactory and faithful performance by the SUPPLIER of all its undertakings defined in and provided for under this Contract and Contract Documents, PPA agrees to pay the SUPPLIER the total amount not exceeding **FOUR HUNDRED THREE MILLION FOUR HUNDRED NINETY NINE THOUSAND NINE HUNDRED NINETY NINE AND 99/100 PESOS (P403,499,999.99)**. Philippine Currency, inclusive of the twelve percent (12%) value added tax (VAT), to be paid as follows:

- a. 80% of contract cost - after inspection and acceptance by Head Office.
- b. 20% of contract cost - after inspection and acceptance by the PMO's.

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

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

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

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

**ARTICLE IV
PERFORMANCE SECURITY**

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

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

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

MINDANAO LABORATORY SERVICES

Witness:
YANUARY H. HONG
International Partner

BY: **MANUEL B. RODAJE, JR.**
Authorized Representative

Witness:
MARK JON S. PALOMAR
Chairperson, HO-BAC-PGCS

BY: **JAY DANIEL A. SANTIAGO**
General Manager

<p>b. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank</p>	<p>Five percent (5%)</p>
<p>c. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.</p>	<p>Thirty percent (30%)</p>

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

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

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

**ARTICLE V
COMPLETION TIME: LIQUIDATED DAMAGES**

5.01 The SUPPLIER agrees and obligates itself to perform and complete all works provided in this Contract in accordance with Section 2.02 hereof. Notice to proceed shall be issued within Seven (7) calendar days from the date of approval of this contract.


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

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

5.04 In no case, however, shall the total sum of liquidated damages exceed ten percent (10%) of the total contract price, in which event the contract shall automatically be terminated by PPA and the erring SUPPLIER's performance security shall be forfeited. The amount of the forfeited performance security shall be aside from the amount of the liquidated damages that the SUPPLIER'S shall pay PPA under Section 5.02 hereof and impose other appropriate sanctions.

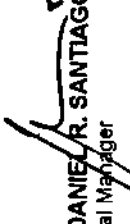
**ARTICLE VI
SUPPLIER'S LIABILITY**

6.01 The Parties, likewise, hereby agree that the employees of the SUPPLIER are not employees of the PPA; hence, the PPA shall not in any way be liable or responsible for any personal injury or damages, including death sustained or caused by any of the employees of the SUPPLIER and/or his sub-contractor or agent or supplier whether or not occurring during the performance of their duties. The SUPPLIER agrees and binds itself to indemnify the PPA for whatever injuries or damages caused or occasioned or contributed to by the failure, negligence or conduct of the SUPPLIER and/or its employees, sub-contractors, agent and supplier or

MINDANAO LABORATORY SERVICES
BY: 
MANUEL B. RODAJE, JR.
Authorized Representative

Witness:

MARK JOINS. PALOMAR
Chairperson, HO-BAC-PGCS

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

Witness:

YARA P. POSING
International Partner

consultants arising out of or in connection with or on the occasion of the performance of this Agreement. The SUPPLIER shall, at all times, stand solely liable and/or responsible for the enforcement of, and compliance with all existing laws, rules and regulations and binds itself to save and hold the PPA free and harmless from any and all liability in respect thereof and/or arising therefrom and/or by reason of this Contract and its implementation.

**ARTICLE VII
RESPONSIBILITY OF THE SUPPLIER**

7.01 The SUPPLIER shall assume full responsibility of its obligations under this contract until its final acceptance by the PPA and shall be held responsible for any damage or destruction of works until such final acceptance.

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

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

**ARTICLE VIII
NON-ASSIGNMENT AND NO SUBCONTRACT**

8.01 The SUPPLIER shall not, without the written approval of the PPA, assign its rights or obligations under this Contract, in whole or in part. Any unapproved assignment, transfer, pledge, sub-contract or any other disposition, shall be sufficient ground for PPA to terminate or cancel this Contract motu proprio without need of judicial action pursuant to Section 17.04 hereof. Should PPA give its written approval for the SUPPLIER to assign any part of this contract, such consent shall not relieve the SUPPLIER of its responsibilities under this Contract. The SUPPLIER shall ensure that the terms and conditions of any such sub-contract shall comply and conform with the terms and conditions of this Contract. The SUPPLIER shall be responsible for the observance by any such sub-contractor of the terms and conditions of this Contract.

**ARTICLE IX
TAXES, LICENSES, PERMITS AND FEES**


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

**ARTICLE X
AGREEMENT MODIFICATION**

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


**ARTICLE XI
INDIVISIBILITY OF OBLIGATION**

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

MINDANAO LABORATORY SERVICES
BY: 
MANJELIB RODAJE, JR.
Authorized Representative

Witness:

MARK JON B. PALOMAR
Chairperson, HO-BAC-PGCS

PHILIPPINE FUKU'S AUTHORITY
BY: 
JAY DANIEL R. SANTIAGO
General Manager

Witness:

YAN B. POSING
International Partner

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

**ARTICLE XIV
EFFECTIVITY**

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

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

PHILIPPINE PORTS AUTHORITY

(TIN No. 000-352-232-000)

By:

JAY DANIEL R. SANTIAGO
General Manager

MINDANAO LABORATORY SERVICES

(TIN No. 921-809-275-000)

By:

MANUEL B. RODAJE, JR.
Authorized Representative

WITNESSES:

MARK JON S. PALOMAR
Chairperson, HO-BAC-PGCS

YANG HUIANG
International Partner

ACKNOWLEDGMENT

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

BEFORE ME, a Notary Public for and in the City of MANILA PHILIPPINES, Philippines, this 03 APR 2019 2019, personally appeared:

NAME	PROOF OF IDENTITY	DATE	PLACE
Jay Daniel R. Santiago	PPA No. 00102016		
Manuel B. Rodaje, Jr.	Driver's License No. K04-97-028816		
POSITION	COMPANY	CTC No.	DATE PLACE
General Manager	Phil. Ports Authority	00158522	1-15-19 Manila
Authorized Representative	Mindanao Laboratory Services		

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

The foregoing instrument refers to a Contract for the Supply, Delivery, Installation and Commissioning of Seventy One (71) Units Generator Sets with Automatic Transfer Switch (ATS) for Port Management Offices consisting of Eight (8) pages including the page on which this acknowledgement is written, signed by the parties and their witnesses on all pages.

WITNESS MY HAND AND NOTARIAL SEAL.

Doc. No. 244 ;
Page No. 10 ;
Book No. 111 ;
Series of 2019.

ATTY. EDITH P. TALAROC
NOTARY PUBLIC UNTIL DEC. 31 2019
PTR NO. 836769 - JAN 5 2019
IBP NO. 80868 - ROLL NO. 6599
ISSUED AT CITY OF MANILA
COMMISSION NO. 2017-219
MCLE NO. V-100160