



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT

BIDS AND AWARDS COMMITTEE

Resolution No. 2020-

WHEREAS, the Department of Budget and Management-Bids and Awards Committee (DBM-BAC) conducted a Negotiated Procurement under Two Failed Biddings modality for the Project, "Petroleum, Oil and Lubricants," with an Approved Budget for the Contract of P27,000,000.00 for FYs 2020 and 2021, through the authorized appropriations under the FY 2020 General Appropriations Act and Multi-year Contractual Authority-BMB-C-190000032;

WHEREAS, as part of DBM's early procurement activities, an Invitation to Bid for the Project, "Provision of Courier Services," to cover the requirements for FY 2020 and FY 2021, was posted on the Philippine Government Electronic Procurement System (PhilGEPS) website, the DBM website, and all DBM bulletin boards on November 8, 2019, but eventually, a failure of bidding was declared on November 29, 2019 under BAC Resolution No. 2019-74;

WHEREAS, consequently, a second public bidding was conducted for the same Project, with the Invitation to Bid posted on December 3, 2019, but another failure of bidding was declared on December 23, 2019 under BAC Resolution No. 2019-92;

WHEREAS, due to the two consecutive failed biddings and after conducting a mandatory review and evaluation of the terms, conditions and specifications in the Bidding Documents pursuant to Sections 35.2, 35.3, and 35.5 of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the BAC resorted to a Negotiated Procurement under Two Failed Biddings modality for the said Project through BAC Resolution No. 2019-92;

WHEREAS, the Invitation for Negotiated Procurement for the Project was posted on the PhilGEPS website, the DBM website, and all DBM bulletin boards on January 28, 2020, but a failure of bidding was declared on March 3, 2020 through BAC Resolution No. 2020-11. A second Invitation for Negotiated Procurement for the Project was posted on March 6, 2020, but another failure of bidding was declared on March 17, 2020 under BAC Resolution No. 2020-18;

WHEREAS, considering the limited mobility on the part of the interested bidders and the consequent difficulty in accessing the required documents in view of the imposed Enhanced Community Quarantine from March 16 to May 31, 2020, no reposting was done during the said period;

WHEREAS, on June 2, 2020, the third Invitation for Negotiated Procurement under Two Failed Biddings modality was posted on the Philippine Government Electronic Procurement System website, the DBM website, and all DBM bulletin boards;

WHEREAS, Petron Corporation attended the Meeting with Interested Bidders on June 5, 2020;

WHEREAS, Supplemental/Bid Bulletin No. 1 was issued on June 9, 2020 to clarify, modify or amend items in the Bidding Documents;

WHEREAS, during the submission and opening of the Eligibility Documents, Technical Proposal, and Best and Final Offer on July 3, 2020, only one (1) bidder, Petron Corporation, submitted a bid;

WHEREAS, after preliminary examination of the bid, the BAC, using non-discretionary "pass/fail" criteria, determined the submission of Petron Corporation as "passed" for complying with all the eligibility and technical requirements as stated in the Bidding Documents;

WHEREAS, after evaluation of the financial proposal, the BAC declared the submission of Petron Corporation as the Single Calculated Bid in the amount of P18,098,982.90;

WHEREAS, after careful evaluation, validation and verification of the eligibility, technical and financial proposals of the bid, the BAC found that the submission of Petron Corporation passed all the criteria for post-qualification; thus, it was declared as the Single Calculated and Responsive Bid in the amount of P18,098,982.90;

NOW, THEREFORE, for and in consideration of the foregoing premises, the BAC **RESOLVED**, as it hereby **RESOLVED**, to recommend to the Secretary of the Department of Budget and Management that the contract for the Project, "Petroleum, Oil and Lubricants," be awarded to Petron Corporation, in accordance with RA No. 9184 and its 2016 Revised IRR.

ADOPTED, this 14th day of July 2020 at the Department of Budget and Management, General Solano St., San Miguel, Manila.



THEA MARIE CORINNE F. PALARCA
End-user Representative

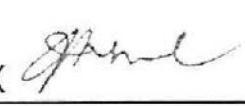
not present
SHERYLL GRACE S. AROMIN
B.U.D.G.E.T. Representative


JEANNE TERESITA V. IMPORTANTE
Member


ROWEL D. ESCALANTE
Member


RYAN S. LITA
Member


Digitally signed
by Andrea Celene
M. Magtalas
ANDREA CELENE M. MAGTALAS
Vice Chairperson

X 

Signed by: Janet B. Abuel

JANET B. ABUEL
Chairperson

☒ Approved

☐ Disapproved


WENDEL E. AVISADO
Secretary

Date: _____



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT
GENERAL SOLANO STREET, SAN MIGUEL, MANILA

BIDS AND AWARDS COMMITTEE

NOTICE OF AWARD

MR. ARCHIE B. GUPALOR

Vice President for National Sales Division
Petron Corporation
SMC Head Office Complex
No. 40 San Miguel Avenue
Mandaluyong City, Metro Manila

Dear **Mr. Gupalor:**

We are pleased to inform you that the contract for the Project, "Petroleum, Oil and Lubricants," is hereby awarded to Petron Corporation in the amount of P18,098,982.90.

In this regard, you are hereby required to post a performance security in the amount and form stated in Section 39 of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184 prior to the signing of the contract.

Thank you and God Bless.

Very truly yours,


WENDEL E. AVISADO
Secretary





REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT
GENERAL SOLANO STREET, SAN MIGUEL, MANILA

BIDS AND AWARDS COMMITTEE

NOTICE OF AWARD

MR. ARCHIE B. GUPALOR

Vice President for National Sales Division
Petron Corporation
SMC Head Office Complex
No. 40 San Miguel Avenue
Mandaluyong City, Metro Manila

Dear **Mr. Gupalor:**

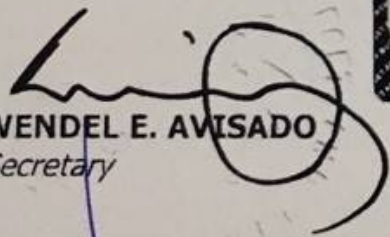
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In this regard, you are hereby required to post a performance security in the amount and form stated in Section 39 of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184 prior to the signing of the contract.

Thank you and God Bless.

Very truly yours,




WENDEL E. AVISADO
Secretary


ARCHIE B. GUPALOR

VP - Retail Sales
Petron Corporation

8/5/20



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT
GENERAL SOLANO ST., SAN MIGUEL, MANILA

NOTICE TO PROCEED

JAN 20 2021

MR. MARBELSON L. JIZ

Manager, Cards Business Group
Petron Corporation
SMC Head Office Complex
No. 40 San Miguel Avenue
Mandaluyong City, Metro Manila

Dear **Mr. Jiz**:

This is to inform your company that performance of the obligations specified in the attached Contract for the Project, "Petroleum, Oil and Lubricants," shall commence upon receipt of this Notice to Proceed in accordance with Section 37.4 of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184.

Thank you and God Bless.

Very truly yours,


WENDEL E. AVISADO
Secretary



I acknowledge receipt and acceptance of this Notice on

 1/21/21

Name of Authorized Representative: _____

Signature: _____



CONTRACT No. 2020-20
PETROLEUM, OIL AND LUBRICANTS

This CONTRACT made and entered into by and between the following:

DEPARTMENT OF BUDGET AND MANAGEMENT, a government agency created by virtue of the laws of the Republic of the Philippines, with principal office address at General Solano St., San Miguel, Manila, represented herein by its **SECRETARY, WENDEL E. AVISADO**, hereinafter called the "**DBM**";

- and -

PETRON CORPORATION, a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at SMC Head Office Complex, No. 40 San Miguel Avenue, Mandaluyong City, Metro Manila, represented by its Vice President – Retail Sales, **ARCHIE B. GUPALOR** and its Cards Business Group Manager, **MARBELSON L. JIZ**, hereinafter referred to as the "**SUPPLIER**";

(COLLECTIVELY, THE "PARTIES")

WITNESSETH:

WHEREAS, the DBM conducted a Negotiated Procurement–Two Failed Biddings for the Project, "Petroleum, Oil and Lubricants," and the bid of the Supplier is in the amount of Eighteen Million Ninety-Eight Thousand Nine Hundred Eighty-Two Pesos and 90/100 (P18,098,982.90), hereinafter called the "Contract Price";

WHEREAS, pursuant to Sections V.D.1(b.v) and IV(L) of Annex "H" of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184, the Notice of Award was issued to the Supplier last August 5, 2020, and the Supplier posted its performance security in the form of a Performance Securing Declaration on August 14, 2020;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereby mutually stipulate and agree as follows:

1. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the General and Special Conditions of Contract referred to in Annex D and E, respectively.
2. The following documents shall form and be read and construed as part of this Contract:

Annex A	-	Bid Form
B	-	Schedule of Requirements
C	-	Technical Specifications
D	-	General Conditions of Contract
E	-	Special Conditions of Contract
F	-	Notice of Award
G	-	Performance Security

3. In consideration of the payments to be made by the DBM to the Supplier, the Supplier hereby covenants with the DBM to provide the Goods and Services, which is the Petroleum, Oil and Lubricants, and to remedy defects therein in conformity with the provisions of the Contract.
4. The DBM hereby covenants to pay the Supplier, in consideration of the provision of the Goods and Services, which is the Petroleum, Oil and Lubricants, and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the time and in the manner prescribed by the Contract.

In accordance with the delegation of authority, as evidenced by the Secretary's Certificate executed by Assistant Corporate Secretary Joanna Jasmine M. Javier-Elacio on December 28, 2020, Mr. Fernando S. Magnayon is designated as the authorized representative of the DBM in connection with the Project, vice Mr. Archie B. Gupalor.

5. The period for the performance of the obligations under this Contract shall not go beyond the validity of the appropriation for this Project.
6. Entire Agreement. All parties agree that this Contract, including the attached Annexes, contains their full agreement and supersedes all previous agreements, either written or oral, if there are any. No agreements, understandings, commitments, discussions, warranty, representations or other covenants, whether oral or written, between the parties are included in this Contract, including the attached Annexes, except as set forth herein.

IN WITNESS WHEREOF, the parties hereto have signed this Contract on this ____ day of _____, 2020 at General Solano St., San Miguel, Manila, Philippines.

DEPARTMENT OF BUDGET
AND MANAGEMENT


by:


WENDEL E. AVISADO
Secretary



PETRON CORPORATION

by:


ARCHIE B. GUPALOR
Vice President – Retail Sales


FERNANDO S. MAGNAYON
*Vice President for
National Sales Division*


MARBELSON L. JIZ
Cards Business Group Manager

SIGNED IN THE PRESENCE OF


THEA MARIE CORINNE F. PALARCA
Director IV
Administrative Service


Joseito B. Perez Jr.

ACKNOWLEDGMENT

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

BEFORE ME, a Notary Public for and in the City of MANILA, Philippines on this JAN 20 2021
day of _____, 2020 personally appeared the following:

NAME	VALID ID	VALID UNTIL
WENDEL E. AVISADO	DBM ID No. 4601	
ARCHIE B. GUPALOR		
MARBELSON L. JIZ		

known to me to be the same persons who executed the foregoing Contract and who acknowledged to me that the same is their free and voluntary act and deed and of the entities they respectively represent.

This CONTRACT for the Petroleum, Oil and Lubricants was signed by the parties, and their material witnesses on each and every page thereof.

WITNESS MY HAND AND SEAL this ____ day of JAN 20 2021, 2020.

Doc. No 721 ;
Page No 65 ;
Book No 4 ;
Series of 2020.

ATTY. GARY SAMITAN AURE
NOTARY PUBLIC, ROLL NO. 60777
PTR No. 6826493 Issued on Jan. 4, 2021 until Dec. 31, 2021 Manila
IDP License No. C14590 Issued on Feb. 2, 2015
Complet. No. 2020-021 Issued on Jan. 31, 2020 Until Dec. 31, 2021 Manila
MILE No. C1309180 Issued on Feb. 20, 2018 at Pasig City Valid Until April 14, 2022
Office Address: G/F YMCA Building, 350 Antonio Villegas Street, Ermita, Manila

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



SECRETARY'S CERTIFICATE

I, **JHOANNA JASMINE J. ELACIO**, of legal age, married, Filipino, with office address at the SMC Head Office Complex, No. 40 San Miguel Avenue, Mandaluyong City, Metro Manila, after having been duly sworn in accordance with law, do hereby depose and state that:

1. I am the Assistant Corporate Secretary of **PETRON CORPORATION** (the "Corporation"), a corporation duly organized and registered in accordance with the laws of the Republic of the Philippines with principal office at the SMC Head Office Complex, 40 San Miguel Avenue, Mandaluyong City.

2. Under the General Resolutions of the Corporation approved by the Board of Directors of the Corporation at its Organizational Meeting held on June 2, 2020 where a quorum was present and acting throughout, amended on November 3, 2020, and with the personnel movements in the Corporation effective November 16, 2020, **Mr. Fernando S. Magnayon**, Sales Advisor to NSD VP and a Class A signatory, with the delegation of authority by Mr. Archie B. Gupalor, Vice President for National Sales Division, dated December 21, 2020, and **Mr. Marbelson L. Jiz**, Manager – Cards Business Group and a Class C signatory, are jointly authorized to sign, execute and deliver any and all documents of the Corporation for the bidding and the negotiation, execution and delivery of any and all documents relating to the **Memorandum of Agreement for the project "Petroleum, Oil and Lubricants" with the Department of Budget and Management**.

3. This Certificate is hereby executed for whatever legal purpose it may serve.

DONE this 28th day of December 2020 at Mandaluyong City.


JHOANNA JASMINE M. JAVIER-ELACIO
Assistant Corporate Secretary

SUBSCRIBED AND SWORN to before me this DEC 28 2020 at Mandaluyong City, by JHOANNA JASMINE M. JAVIER-ELACIO, as Assistant Corporate Secretary of PETRON CORPORATION, affiant exhibiting to me her Driver's License ID with No. N01-91-127708 valid until June 8, 2023 and avowed under the penalty of law to the whole truth of the contents of the foregoing Certificate.

Doc. No. 398 ;
Page No. 81 ;
Book No. VII ;
Series of 2020.

A handwritten signature in black ink, appearing to read "Jhoanna", is written over a faint, circular notary stamp. The stamp contains text that is mostly illegible but appears to include "Notary Public" and "Mandaluyong City".

MEMORANDUM

December 21, 2020

To: All Concerned

Ref:

cc:

Code

Delegation of Authority

I will be out for field work on **December 28 and 29, 2020**. Please refer all matters requiring my attention as Vice-President for National Sales Division to **Mr. Fernando S. Magnayon**.


The responsibilities and authorities of the position consistent with the limits of authority specified in the General Resolution, except those pertaining to personnel movements and salary budget administration, are also temporarily delegated to Fernan during the above date.


Thank you.


ARCHIE B. GUPALOR

Acknowledged by:

Approved by:


FERNANDO S. MAGNAYON


EMMANUEL E. ERANA

Bid Form

Date: July 1, 2020
Invitation to Bid No.: DBM-2020-32

To: *Department of Budget and Management – Bids and Awards Committee*

Gentlemen and/or Ladies:

Having examined the Bidding Documents including Bid Bulletin Numbers (SBB No. 1), the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply/deliver the **Petroleum, Oil and Lubricants** in conformity with the said Bidding Documents for the sum of **Eighteen Million, Ninety-Eight Thousand, Nine Hundred Eighty-Two & 90/100 (18,098,982.90)** or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

	Specifications	Units	Unit Cost/ Unit Indicator	Total Cost (in Pesos, inclusive of VAT)
I.	Provision of POL for FYs 2020 and 2021 (*)			
	a. Diesel (**)	268,380	40.50	10,869,390.00
	b. Gasoline (**)	45,900	52	2,386,800.00
	c. Oil for diesel engine (fully synthetic) including engine flush and oil filter	1,030.50	3900	4,018,950.00
	d. Oil for gasoline engine (fully synthetic) including engine flush and oil filter	63	3100	195,300.00
	e. Lubricants	33	500	16,500.00
II.	Add: Handling Fee (indicate percentage to be charged), if any	-	3.5	612,042.90
III.	Total Cost, POL (III = I + II)	-	-	18,098,982.90
IV.	Less: Discounts/Rebates, if any, attach further details when necessary	-	-	0
	a. Diesel	-	-	
	b. Gasoline	-	-	
	c. Oil and Lubricants	-	-	
	d. Lubricants (manual transmission fluid)	-	-	
V.	Total Bid Price, POL (V = III - IV)	-	-	18,098,982.90

Note:

* Cost, POL is the sum of all bids for POL for all offices

** Based on the DOE Report on common prices of petroleum products in Metro Manila, February 28, 2020.

*** Only the costs indicated above are chargeable during contract implementation. Cash bond, joining and membership fees, annual card fees, and all other fees shall be waived, thus, they shall not be borne by the DBM. Initial fleet cards shall be free of charge, while fees for replacement cards shall be applied. However,


M.L. JIZ


A. GUALOR

for previously issued fleet cards, a one (1) time replacement of fleet card for the dilapidated card shall likewise be free of charge.

**** Quantities stated are indicative numbers and for bidding purposes only. Biddings shall be based on actual utilization.

We undertake, if our Bid is accepted, to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

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.

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 Calculated Bid or any Bid you may receive.

We certify/confirm that we comply with the eligibility requirements as per ITB Clause 5 of the Bidding Documents.

We likewise certify/confirm that the undersigned, as authorized representative of **PETRON CORPORATION**, is granted full power and authority by the **PETRON CORPORATION**, to participate, submit the bid, and to sign and execute the ensuing contract on the latter's behalf for **PETROLEUM, OIL and LUBRICANTS** of the **DEPARTMENT OF BUDGET AND MANAGEMENT**.

We acknowledge that failure to sign each and every page of this Bid Form, including the attached Schedule of Prices, shall be a ground for the rejection of our bid.

Dated this 1st day of July 20 20 .

 
Marbelson L. Jiz / Archie B. Gupalor

Cards Business Group – Manager /
Vice President and Head for Retails Sales

Duly authorized to sign Bid for and on behalf of **Petron Corporation**

Section VI. Schedule of Requirements

The delivery schedule expressed as weeks/months stipulates hereafter the date of delivery to the project site.

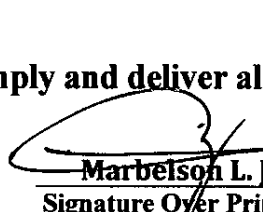
Item	Description	Quantity	Delivery Date*
1.	Provision of Fleet Cards <ul style="list-style-type: none"> • Vehicle Specific Card <ul style="list-style-type: none"> - Central Office - Regional Offices • Operator Specific Card <ul style="list-style-type: none"> - Central Office - Regional Offices 	52 16 2 16	Within fifteen (15) working days from receipt of Notice to Proceed to be delivered to the DBM – Administrative Service
2.	Maximum Provision of Monthly Supply of Petroleum (in liters) <ul style="list-style-type: none"> • Diesel • Gasoline (Min. Research Octane No. [RON] 91) 	14,910 2,550	As the need arises
3.	Maximum Annual Provision for Oil and Lubricants including labor	104 vehicles	As the need arises
4.	Provision of free 24-hour Towing and Roadside Assistance, maximum of three (3) times a year for fleet cardholders, subject to terms and conditions of third-party provider.	270	As the need arises

Note: Indicative number is for bidding purposes only. The DBM-AS may increase or decrease the required quantities for any reason, and in such event, there shall be corresponding upward or downward adjustment in the consideration in such sum as may be agreed upon by the parties provided that the resulting cost of said increase or decrease shall not exceed the Contract Price. Additional fleet card required should be delivered within fifteen (15) working days from receipt of written request from DBM-AS.

* Delivery schedule may be adjusted by the DBM-AS upon written notice to the supplier.

I hereby certify to comply and deliver all the above requirements.

Petron Corporation
Name of Company/Bidder

 **Marbelson L. Jiz / Archie B. Gupalor**
Signature Over Printed Name of Representative

July 1, 2020
Date

Section VII. Technical Specifications

Bidders must state here either "Comply" or any equivalent term in the column "Bidder's Statement of Compliance" against each of the individual parameters of each "Specification."

Item Number	Specifications	Bidder's Statement of Compliance								
1.	<p>Provision of an electronic ("Fleet Card") system</p> <p>a. Must have the following control features:</p> <ul style="list-style-type: none">• Product restrictions except for Operator Specific Card;• Purchase limits: <p style="text-align: center;">VEHICLE SPECIFIC CARD LIMIT</p> <table><tr><td>Central Office</td><td>52 fleet cards (300 liters per month)</td></tr><tr><td>Regional Offices</td><td>16 fleet cards (280 liters per month)</td></tr></table> <p style="text-align: center;">OPERATOR SPECIFIC CARD LIMIT</p> <table><tr><td>Central Office</td><td>2 fleet cards (1500 liters per month)</td></tr><tr><td>Regional Offices</td><td>16 fleet cards (280 liters per month)</td></tr></table> <p>b. At least one (1) station with electronic ("Fleet Card") system within 10 km radius from the DBM Offices;</p> <p>c. Waived cash bond;</p> <p>d. Waived joining fee and membership fees; and</p> <p>e. Waived annual card fees and other fees excluding cost of replacement of Fleet Cards</p> <p>f. For previously issued fleet cards, a one (1) time replacement of fleet card for the dilapidated card shall likewise be free of charge</p>	Central Office	52 fleet cards (300 liters per month)	Regional Offices	16 fleet cards (280 liters per month)	Central Office	2 fleet cards (1500 liters per month)	Regional Offices	16 fleet cards (280 liters per month)	<p style="text-align: center;">COMPLY</p>
Central Office	52 fleet cards (300 liters per month)									
Regional Offices	16 fleet cards (280 liters per month)									
Central Office	2 fleet cards (1500 liters per month)									
Regional Offices	16 fleet cards (280 liters per month)									
2.	<p>Provision of monthly supply of petroleum</p> <p>a. Regular Diesel – 14,910 liters (max.)</p> <p>b. Gasoline (RON 91) – 2,550 liters (max.)</p>	<p style="text-align: center;">COMPLY</p>								


M.L. JIZ

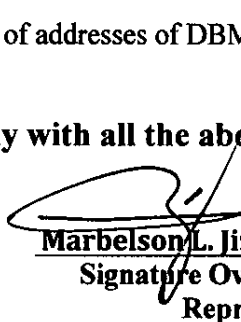

A.B. GOPALOR

3.	Annual Provision of oil and lubricants including labor services: a. Change Oil (fully synthetic) including Engine Flush and Oil Filter – 104 vehicles b. Manual Transmission Fluid – 104 vehicles	COMPLY
4.	Provision of free 24-hour Towing and Roadside Assistance, maximum of three (3) times a year for fleet cardholders, subject to terms and conditions of third-party provider.	COMPLY
5.	Payment System a. Credit charging (30-day cycle); b. Settlement/billing month/period, accompanied by a monthly report (electronic and/or signed printed copy) through DBM Central Office; c. Allows deduction of applicable withholding tax from monthly billing statement; and d. Issue the corresponding Official Receipt on payment made by DBM	COMPLY

Note: See Annex A for the list of addresses of DBM Central and Regional Offices

I hereby certify to comply with all the above Technical Specifications.

Petron Corporation
Name of Company/Bidder


Marbelson L. Jiz / Archie B. Gupalor
Signature Over Printed Name of Representative

July 1, 2020
Date

List of DBM Central and Regional Offices Addresses

Central Office (CO)

Boncodin Hall, Department of Budget and Management, Gen. Solano St., San Miguel, Manila

Regional Offices (ROs)

NCR

PLJ Bldg., 755 Gen. Solano St., San Miguel, Manila

CAR

No. 8 Gen. F. Segundo St., Legarda-Burnham, Baguio City

RO I

Government Center, Sevilla St., San Fernando, La Union

RO II

Regional Government Center, Carigsur, Tuguegarao City, Cagayan

RO III

Regional Government Center, Maimpis, San Fernando City, Pampanga

RO IV-A

PLJ Bldg., 755 Gen. Solano St., San Miguel, Manila

RO MIMAROPA

2nd Floor, CSP Bldg., Brgy. Sta. Cruz, 815 Quezon Avenue, Quezon City

RO V

Regional Center Site, Rawis, Legazpi City

RO VI

251-A General Hughes St., Iloilo City

RO VII

Sudlon (near Eco-Tech Center), Lahug, Cebu City

RO VIII

Brgy. 77, Villaruiz Subdivision, Marasbaras, Tacloban City

RO IX

N.S. Valderosa St., Pettit Barracks, Zamboanga City

RO X

Zone I, Bulua National Highway, Cagayan de Oro City

RO XI

Km. 3, McArthur Highway, Matina, Davao City

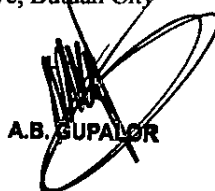
RO XII

DBM Compound, Brgy. Morales, Koronadal City, South Cotabato

RO XIII

J. Rosales Avenue, City Hall Drive, Butuan City


M.L. JIZ


A.B. GUPALOR

GENERAL CONDITIONS OF THE CONTRACT

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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 signing the contract, however the Supplier shall commence performance of its obligations only upon receipt of the Notice to Proceed and copy of the approved contract.

- (n) “Verified Report” refers to the report submitted by the Implementing Unit to the HoPE 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. Schedule of Requirements**.
- 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. If subcontracting is allowed, the Supplier may identify its subcontractor during contract implementation. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under **ITB** Clause 12 and comply with the eligibility criteria specified in the BDS. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.

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 HoPE 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. Payments shall be in accordance with the schedule stated in the **SCC**.
- 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.
- 10.5. Unless otherwise provided in the **SCC**, payments using Letter of Credit (LC), in accordance with the Guidelines issued by the GPPB, is allowed. For this purpose, the amount of provisional sum is indicated in the **SCC**. All charges for the opening of the LC and/or incidental expenses thereto shall be for the account of the Supplier.

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. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.
- 11.3. For Goods supplied from abroad, unless otherwise indicated in the **SCC**, the terms of payment shall be as follows:
- (a) On Contract Signature: Fifteen Percent (15%) 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: Sixty-five percent (65%) 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.

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 Section VII. Technical Specifications; 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** Section VII. Technical Specifications 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 one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the total 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. Schedule of Requirements**.
- 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 may rescind or terminate 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 Supplier 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 Supplier. 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 HoPE 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 HoPE 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 HoPE 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 HoPE 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 HoPE 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 HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE; 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.

Special Conditions of Contract

GCC Clause	
1.1(g)	The Procuring Entity is the Department of Budget and Management (DBM) .
1.1(i)	The Supplier is
1.1(j)	<p>The Funding Source is:</p> <p>The Government of the Philippines (GOP) under the FY 2020 General Appropriations Act and Multi-year Contractual Authority No. MYCA-BMB-C-19-0000032 in the amount of Twenty-Seven Million Pesos (P27,000,000.00).</p>
1.1(k)	<p>The Project Site is:</p> <p>Department of Budget and Management Administrative Service Ground Floor, Building III, General Solano St. San Miguel, Manila.</p>
2.1	No further instructions.
5.1	<p>The Procuring Entity's address for Notices is:</p> <p>Department of Budget and Management Administrative Service DBM Building III General Solano St., San Miguel, Manila Tel No. (02)8657-3300 loc. 3117</p> <p>Contact Person: Director IV Thea Marie Corinne F. Palarca, AS</p> <p>The Supplier's address for Notices is:</p>
6.2	The delivery schedule as indicated in Section VI. Schedule of Requirements may be modified at the option of the Procuring Entity, with prior due notice, written or verbal, to the Supplier.
9.1	<p>Considering the nature of petroleum prices, current pump prices shall be used during contract implementation.</p> <p>Bid price for Oil and Lubricants inclusive of services shall be the fixed ceiling price for at least one (1) specified station within a ten (10) kilometer (km) radius from the DBM Central Office/Regional Offices.</p>
10.2	Appropriate withholding taxes shall be deducted from the actual monthly payments.

10.3	<p>Terms of Payment shall be on a monthly basis.</p> <p>*In order to proceed with the payment process, the bidder must submit the following:</p> <ul style="list-style-type: none"> a. Renewed Mayor's/Business Permit in lieu of the submitted expired permit; b. Notarized Omnibus Sworn Statement in lieu of the submitted unnotarized Omnibus Sworn Statement; and c. Notarized Performance Securing Declaration (PSD) or any form of Performance Security, as stated in Clause 33.2 of Section II. Instructions to Bidders of the Bidding Documents, in lieu of the unnotarized PSD.
10.4	Not applicable.
10.5	Payment using LC is not allowed.
11.3	Maintain the GCC Clause.
13.4(c)	No further instructions.
15	No further instructions
16.1	No further instructions.
17.3	No further instructions.
17.4	No further instructions.
19	<p>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 may rescind the Contract pursuant to GCC Clause 23, without prejudice to other courses of action and remedies open to it.</p> <p>The imposition of liquidated damages in all instances shall be automatic, except upon prior request for extension and approval thereof by the Procuring Entity before the scheduled delivery date.</p> <p>Any request for extension not acted upon before delivery date shall be considered denied.</p>

21.1	The Supplier shall be responsible and liable for cost of repair due to damages caused by its agents while implementing the project.
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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT
GENERAL SOLANO STREET, SAN MIGUEL, MANILA

BIDS AND AWARDS COMMITTEE

NOTICE OF AWARD

MR. ARCHIE B. GUPALOR

Vice President for National Sales Division
Petron Corporation
SMC Head Office Complex
No. 40 San Miguel Avenue
Mandaluyong City, Metro Manila

Dear **Mr. Gupalor:**

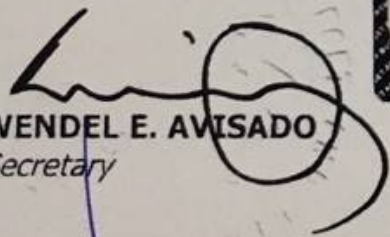
We are pleased to inform you that the contract for the Project, "Petroleum, Oil and Lubricants," is hereby awarded to Petron Corporation in the amount of P18,098,982.90.


In this regard, you are hereby required to post a performance security in the amount and form stated in Section 39 of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184 prior to the signing of the contract.

Thank you and God Bless.

Very truly yours,




WENDEL E. AVISADO
Secretary


ARCHIE B. GUPALOR

VP - Retail Sales
Petron Corporation

8/5/20

REPUBLIC OF THE PHILIPPINES)

CITY OF _____) S.S.

x-----x

PERFORMANCE SECURING DECLARATION

Invitation to Bid: DBM 2020-32

To: Department of Budget and Management
Administrative Service
DBM Building III
General Solano St., San Miguel, Manila

I/We, the undersigned, declare that:

1. We understand that, according to your conditions, to guarantee the faithful performance by the supplier of its obligations under the Contract, we shall submit a Performance Securing Declaration within a maximum period of ten (10) calendar days from the receipt of the Notice of Award prior to the signing of the Contract.
2. We accept that we will be automatically disqualified from bidding for any procurement contract with any procuring entity for a period of one (1) year if in case it is my first offense, or two (2) years if I have a prior similar offense upon receipt of your Blacklisting Order if we have violated our obligations under the Contract.
3. We understand that this Performance Securing Declaration shall cease to be valid upon:
 - a. issuance by the Procuring Entity of the Certificate of Final Acceptance, subject to the following conditions:
 - i. Procuring Entity has no claims filed against the contract awardee;
 - ii. It has no claims for labor and materials filed against the contractor; and
 - iii. Other terms of the contract; or
 - b. replacement by the winning bidder of the submitted PSD with a performance security in any of the prescribed forms under Section 39.2 of the 2016 IRR of RA No. 9184 as required by the end-user.

IN WITNESS WHEREOF, I/We have hereunto set my/our hand/s this ____ day of _____ at _____.


Marbelson L. Jiz / Arlene B. Supalor
Manager – Cards Business Group /
Vice President & Head – Retail Sales
Affiant

SUBSCRIBED AND SWORN to before me this ____ day of _____ in Mandaluyong, Philippines. Affiants are personally known to me and 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). Affiants exhibited to me their Philippine Passports, with their photograph and signature appearing thereon, with nos. P1278162B and EC8364854 issued on March 30, 2019 and July 21, 2016 at DFA NCR East and DFA Iloilo.

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]

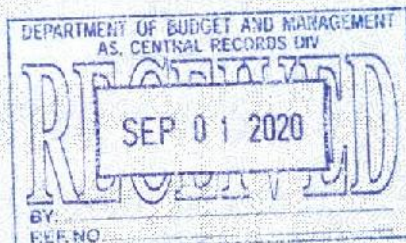
IBP No. _____ [date issued], [place issued]

Doc. No. _____

Page No. _____

Book No. _____

Series of _____



STANDBY LETTER OF CREDIT
Reference No. 066/LG/001074/20

PAGE 1 OF 2

AUGUST 25, 2020

APPLICANT: **PETRON CORPORATION**
 40 SAN MIGUEL AVENUE,
 MANDALUYONG CITY

BENEFICIARY: **DEPARTMENT OF BUDGET AND MANAGEMENT**
 GROUND FLOOR, DBM BUILDING III, GENERAL SOLANO ST.,
 SAN MIGUEL, MANILA

GENTLEMEN:

WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. 066/LG/001074/20 IN AN AMOUNT NOT EXCEEDING **PESOS: NINE HUNDRED FOUR THOUSAND NINE HUNDRED FORTY NINE AND 15/100 ONLY (PHP904,949.15)** IN FAVOR OF **DEPARTMENT OF BUDGET AND MANAGEMENT** (THE "BENEFICIARY"), WITH BUSINESS ADDRESS AT GROUND FLOOR, DBM BUILDING III, GENERAL SOLANO ST., SAN MIGUEL, MANILA, FOR THE ACCOUNT OF **PETRON CORPORATION** (THE "ACCOMTEE"), WITH BUSINESS ADDRESS AT 40 SAN MIGUEL AVENUE, MANDALUYONG CITY, TO SECURE THE PERFORMANCE OF THE ACCOMTEE'S OBLIGATION FOR THE **PROJECT: PROCUREMENT OF PETROLEUM, OIL AND LUBRICANTS**, PURSUANT TO THE NOTICE OF AWARD.

FUNDS UNDER THIS STANDBY LETTER OF CREDIT ARE AVAILABLE TO YOU AGAINST YOUR DRAFT(S) DRAWN AT SIGHT ON US, ACCOMPANIED BY A NOTARIZED WRITTEN DEMAND PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE BENEFICIARY AS FOLLOWS:

"METROPOLITAN BANK & TRUST COMPANY
 INTERNATIONAL OPERATIONS DIVISION
 G/F IMPORT DEPARTMENT METROBANK PLAZA
 SEN. GIL J. PUYAT AVE., MAKATI CITY
 PHILIPPINES

GENTLEMEN:

WE HEREBY CERTIFY THAT:

1. PETRON CORPORATION HAS FAILED TO FULFILL ITS OBLIGATIONS FOR THE **PROJECT: PROCUREMENT OF PETROLEUM, OIL AND LUBRICANTS**, PURSUANT TO THE NOTICE OF AWARD.
2. PETRON CORPORATION'S FAILURE OR DEFAULT HAS RESULTED IN DAMAGE TO **DEPARTMENT OF BUDGET AND MANAGEMENT** IN THE AMOUNT OF PHP _____.

REFERENCE NO. 066/LG/001074/20
PAGE 2 OF 2

3. ACCORDINGLY, THE AMOUNT OF PHP _____ IS DUE AND OUTSTANDING, FOR WHICH PAYMENT IS HEREBY DEMANDED.

AUTHORIZED SIGNER

DEPARTMENT OF BUDGET AND MANAGEMENT"

THE ORIGINAL STANDBY LETTER OF CREDIT MUST BE PRESENTED TOGETHER WITH THE DRAFT(S) AND NOTARIZED WRITTEN DEMAND.

ALL BANKING CHARGES ARE FOR THE ACCOUNT OF THE APPLICANT.

THE STANDBY LETTER OF CREDIT IS EFFECTIVE **FROM AUGUST 25, 2020** AND WILL EXPIRE AT 5:00 P.M. ON **DECEMBER 31, 2021** AT THE COUNTERS OF METROPOLITAN BANK & TRUST COMPANY, INTERNATIONAL OPERATIONS DIVISION G/F IMPORT DEPARTMENT METROBANK PLAZA SEN. GIL J. PUYAT AVE., MAKATI CITY, PHILIPPINES. ANY EXTENSION SHALL BE SUBJECT TO THE CONSENT OF THE ISSUING BANK.


THE DRAFT(S) MUST BE MARKED "DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. 066/LG/001074/20 DATED AUGUST 25, 2020".

CLAIMS AND RIGHTS RESULTING FROM THIS STANDBY LETTER OF CREDIT CAN ONLY BE TRANSFERRED OR ASSIGNED WITH OUR PRIOR WRITTEN CONSENT.

THIS STANDBY LETTER OF CREDIT IS ISSUED SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (ICC PUBLICATION UCP600, 2007 REVISION).

OUR PAYMENT OBLIGATION (INCLUDING OBLIGATION TO PAY ANY CONFIRMING, NEGOTIATING OR PAYING BANK) IS SOLELY THE OBLIGATION OF METROBANK HEAD OFFICE, NOTWITHSTANDING ANY CLEARING OR PAYING ARRANGEMENTS WITH ANY CONFIRMING, NEGOTIATING, PAYING OR ADVISING BANK AND IS (1) SUBJECT TO THE LAWS OF THE REPUBLIC OF THE PHILIPPINES; AND (11) EXCUSED BY LAWS, ACTS OF WAR OR CIVIL STRIFE OR SIMILAR EVENTS BEYOND THE CONTROL OF METROPOLITAN BANK AND TRUST COMPANY, HEAD OFFICE.

METROPOLITAN BANK & TRUST COMPANY
INTERNATIONAL OPERATIONS DIVISION - IMPORT DEPARTMENT
METROBANK PLAZA, HEAD OFFICE, SEN. GIL J. PUYAT AVE., MAKATI CITY



ANNA LIZA G. GUTIERREZ
JUNIOR ASSISTANT MANAGER



LEOMEL C. SAYO
ASSISTANT VICE PRESIDENT