



PNOC EXPLORATION CORPORATION

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INVITATION TO APPLY FOR ELIGIBILITY AND TO BID

PNOC Exploration Corporation through its 2006 Corporate Budget approved by the PNOEC Board intends to apply the sum of USD 172,426.00 being the Approved Budget for the Contract (ABC) to payments under the contract for SG06-371. Bids received in excess of the ABC shall be automatically rejected at Bid opening.

PNOC Exploration Corporation now invites interested suppliers to apply for eligibility and submit sealed bids for the supply and installation of Guide Vanes and Combustor Cans for San Antonio Gas Power Plant's Gas Turbine Engine.

Bidding will be conducted through competitive bidding procedures using non-discretionary pass/fail criteria as specified in the Implementing Rules and Regulations Part A (IRR-A) of Republic Act 9184 (R.A. 9184), otherwise known as the "Government Procurement Reform Act". Only Bids from Bidders who pass the eligibility check will be opened. The process for the eligibility check is described in Section II of the Bidding Documents, ITB. The bidder with the Lowest Calculated Bid (LCB) shall advance to the post-qualification stage in order to finally determine responsiveness of the bid to technical and financial requirements of the project. The contract shall then be awarded to the Lowest Calculated and Responsive Bidder (LCRB) who was determined as such during the post-qualification procedure.

A complete set of Bidding Documents may be downloaded by interested Bidders from the PNOEC website www.pnoc-ec.com.ph.

Bids and eligibility requirements must be received by the PNOEC Procurement Section on or before November 10, 2006, 5:00 p.m. All Bids must be accompanied by a Bid Security in the form and amount indicated in Section III of the Bidding Documents, BDS. The bids, including the eligibility requirements, shall be publicly opened immediately thereafter. Late Bids shall not be accepted.

PNOC Exploration Corporation reserves the right to accept or reject any Bid, to annul the bidding process, and to reject all Bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or Bidders.

This publication is also posted on our website at www.pnoc-ec.com.ph and on the DBM website at www.philgeps.net. For further inquiries, please call Mr. Carlos L. Mejias at (632) 840-1614 or e-mail at clmejias@pnoc-ec.com.ph.

:CLM

**Vice-Chairperson,
Bids and Awards Committee**

PNOC EXPLORATION CORPORATION

PROJECT : SUPPLY OF GAS TURBINE ENGINE PARTS
PURCHASE NO. : SG06-371
SECTION : SECTION II - INSTRUCTION TO BIDDERS

1. Scope of Bid

- 1.1. The PROCURING ENTITY named in the **BDS** (hereinafter referred to as the “PROCURING ENTITY”) wishes to receive Bids for supply and delivery of the goods as defined in the IRR-A of R.A. 9184 and described in Section I hereof (hereinafter referred to as the “GOODS”).
- 1.2. The name, identification, and number of lots specific to this bidding are provided in the **BDS**. The contracting strategy and basis of evaluation of lots is described in ITB Clause 32.

2. Source of Funds

- 2.1. The PROCURING ENTITY has a budget or has applied for or received financing (hereinafter called “funds”) from the source indicated in the **BDS** (hereinafter called the “Funding Source”) toward the cost of the project named in the **BDS**. The PROCURING ENTITY intends to apply a portion or the whole of the funds to payments under the contract for which this Bidding Documents is issued.
- 2.2. Unless otherwise provided in the **BDS**, payments will be made only at the request of the PROCURING ENTITY and upon approval by its Head in accordance with the provisions, terms, and conditions of existing and applicable law. No party other than the PROCURING ENTITY shall have a right or claim over the budget specifically appropriated for the project.

3. Corrupt, Fraudulent, and Coercive Practices

- 3.1. The PROCURING ENTITY as well as the bidders, contractors, manufacturers, suppliers or distributors shall observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the PROCURING ENTITY:

(a) defines, for purposes of this provision, the terms set forth below as follows:

(a.1) “corrupt practice” means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.

(a.2) “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.

- (a.3) “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.
- (a.4) “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;
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

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

3.3. Furthermore, the Funding Source and the PROCURING ENTITY reserve the right to inspect and audit records and accounts of a supplier or contractor in the bidding for and performance of a contract themselves or through independent auditors as reflected in the GCC Clause 3.1.

4. Conflict of Interest

4.1. All Bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) below and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (f) below:

- (a) A Bidder has controlling shareholders in common with another Bidder;
- (b) A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
- (c) A Bidder has the same legal representative as that of another Bidder for purposes of this Bid;
- (d) A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder or influence the decisions of the PROCURING ENTITY regarding this bidding process. This will include a firm or an organization who lends, or temporarily seconds, its personnel to firms or organizations which are engaged

in consulting services for the preparation related to procurement for or implementation of the project if the personnel would be involved in any capacity on the same project;

- (e) A Bidder submits more than one Bid in this bidding process. However, this does not limit the participation of subcontractors in more than one Bid; or
 - (f) A Bidder who participated as a consultant in the preparation of the design or technical specifications of the GOODS and related services that are the subject of the Bid.
- 4.2.** In accordance with Section 47 of the IRR-A of R.A. 9184, all Bidding Documents shall be accompanied by a sworn affidavit of the Bidder that it is not related to the head of the PROCURING ENTITY by consanguinity or affinity up to the third civil degree or any of the PROCURING ENTITY's officers or employees having direct access to information that may substantially affect the result of the bidding, such as, but not limited to, the members of the BAC, the members of the Technical Working Group (TWG), the BAC Secretariat, the members of the Project Management Office (PMO), and the designers of the project. This Clause shall apply to the following persons:
- (a) If the Bidder is an individual or a sole proprietorship, to the Bidder himself;
 - (b) If the Bidder is a partnership, to all its officers and members;
 - (c) If the Bidder is a corporation, to all its officers, directors, and controlling stockholders; and
 - (d) If the Bidder is a joint venture (JV), the provisions of items (a), (b), or (c) of this Clause shall correspondingly apply to each of the members of the said JV, as may be appropriate.

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

5. Eligible Bidders

- 5.1.** Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this Bidding:
- (a) Duly licensed Filipino citizens/sole proprietorships;
 - (b) Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;
 - (c) Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
 - (d) Manufacturers, suppliers and/or distributors forming themselves into a JV, i.e., a group of two (2) or more manufacturers, Suppliers and/or distributors that intend to be jointly and severally responsible or liable for a particular contract: Provided, however,

that Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%); or

- (e) Cooperatives duly registered with the Cooperatives Development Authority (CDA).
- 5.2.** Unless otherwise indicated in the **BDS**, when the GOODS sought to be procured are not available from local sources as provided in this Clause, at the prescribed minimum specifications of the PROCURING ENTITY and/or the Approved Budget for the Contract (ABC) of the PROCURING ENTITY as certified by its Head, or when there is a need to prevent situations that defeat competition or restrain trade, the said PROCURING ENTITY may invite foreign Bidders not deemed eligible pursuant to ITB Clause 5.1.
- 5.3.** Unless otherwise indicated in the **BDS**, citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to citizens of the Philippines are eligible pursuant to R.A. 5183 and subject to C.A. 138.
- 5.4.** A JV of two or more firms as partners shall comply with the following requirements:
- (a) the Joint Venture Agreement (JVA) shall be signed so as to be legally binding on all partners, unless otherwise indicated in the **BDS**;
 - (b) one of the partners shall be authorized to be in charge; and this authorization shall be evidenced by submitting a special power of attorney signed by legally authorized signatories of all the partners;
 - (c) the partner in charge shall be authorized to incur liabilities, receive payments and receive instructions for and on behalf of any or all partners of the JV;
 - (d) all partners of the JV shall be jointly and severally liable for adherence to this ITB and performance of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the authorization mentioned under (b) above as well as in the Bid Form and the Form of Contract Agreement (in case of a successful Bid);
 - (e) a copy of the notarized JVA entered into by the JV partners shall be submitted with the Bid.

6. Origin of GOODS and Services

- 6.1.** Unless otherwise indicated in the **BDS**, there is no restriction on the origin of GOODS and services other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, subject to ITB Clause **Error! Reference source not found.**

7. Subcontracts

- 7.1.** The Bidder shall specify in its Bid all portions of the GOODS that will be subcontracted, if any, including the entity(ies) to whom each portion will be subcontracted to, subject to the maximum allowable limit for

subcontracting of GOODS specified in the **BDS**. Subcontracting of any portion of the GOODS shall not relieve the Bidder from any liability or obligation that may arise from its performance.

- 7.2. Subcontractors must comply with the provisions of ITB Clause 5. For this purpose, the Bidder shall include in its Technical Proposal all the documents required under ITB Clause 13 for any subcontractor. If the PROCURING ENTITY determines that a subcontractor is ineligible, the subcontracting of such portion of the GOODS assigned to the ineligible subcontractor shall be disallowed.

8. Documents Establishing Bidder's Eligibility and Qualification

- 8.1. The documentary evidence of the Bidder's qualifications to perform the contract if its Bid is accepted shall establish to the PROCURING ENTITY's satisfaction that:

- (a) in the case of a Bidder offering to supply GOODS under the Contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the GOODS' Manufacturer or producer to supply the GOODS in the PROCURING ENTITY's country;
- (b) the Bidder has the financial, technical, and production capability necessary to perform the Contract; and
- (c) in the case of a Bidder not doing business in the Philippines or foreign Bidders eligible in accordance with ITB Clause 5, the Bidder is or will be (if awarded the contract) represented by an agent in the Philippines equipped and able to carry out the Supplier's maintenance, repair, and spare parts, stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

- 8.2. To establish their eligibility in accordance with this Clause, Bidders shall:

- (a) complete the eligibility declarations in the Bid Submission Sheet, included in Section VIII; and
- (b) if the Bidder is an existing or intended JV in accordance with ITB Clause 5.4, submit a copy of the JVA, unless otherwise indicated in the **BDS**. The respective document shall be signed by all legally authorized signatories of all the parties to the existing or intended JV, as appropriate.

- 8.3. The documentary evidence of the Bidder's eligibility to Bid shall establish to the PROCURING ENTITY's satisfaction that the Bidder, at the time of submission of its Bid, is eligible as defined under ITB Clause 5.

9. Content of the Bidding Documents

- 9.1. The Bidding Documents consist of Sections I to VIII which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB Clause 11.

Section I. Invitation to Apply for Eligibility and to Bid

Section II. Instructions to Bidders
Section III. Bid Data Sheet
Section IV. General Conditions of the Contract
Section V. Special Conditions of the Contract
Section VI. List of Replacement Parts
Section VII. Sample Forms

- 9.2. Bidders should note that the PROCURING ENTITY will only accept Bids from Bidders that have purchased the Bidding Documents from the office indicated in the IAEB.
- 9.3. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Unless otherwise indicated in the **BDS**, failure to furnish all information or documentation required in the Bidding Documents shall result in the rejection of the Bid and the disqualification of the Bidder.

10. Pre-Bid Conference

- 10.1. To clarify and address the Bidders' questions on the requirements, terms and conditions, and specifications stipulated in the Bidding Documents, a Pre-Bid Conference shall be held at the venue and on the date indicated in the **BDS**. Bidders are encouraged to attend the Pre-Bid Conference to ensure that they fully understand the PROCURING ENTITY's requirements. Non-attendance of the Bidder will in no way prejudice its Bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents discussed during the Pre-Bid Conference. Any statement made at the Pre-Bid Conference shall not modify the terms of the bidding documents unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.
- 10.2. A prospective Bidder requiring any clarification on the Bidding Documents shall submit their request for clarification in writing to the BAC of the PROCURING ENTITY at the PROCURING ENTITY's address indicated in the **BDS**. The PROCURING ENTITY's BAC will respond in writing to any request for clarification by issuing a Supplemental/Bid Bulletin, provided that such request is received at least ten (10) calendar days before the deadline for submission and receipt of Bids. The PROCURING ENTITY's BAC shall issue its response not later than seven (7) calendar days before the deadline for the submission and receipt of Bids, to be made available to all Bidders who have acquired the Bidding Documents directly from it, including a description of the inquiry but without identifying its source. Should the PROCURING ENTITY deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 11.

11. Amendment of Bid Documents

- 11.1. Supplemental/Bid Bulletins may be issued upon the PROCURING ENTITY's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. It is the responsibility of the PROCURING ENTITY to notify in writing, and through posting in the website of the PROCURING ENTITY and the Government Electronic Procurement System (G-EPS) the said

documents, all those who have properly secured the Bidding Documents. Any modification to the Bidding Documents shall be identified as an amendment. Bidders who have submitted Bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their Bids.

- 11.2. It shall be the responsibility of all Bidders who secure the Bidding Documents to ensure that they are aware of and secure any Bid Bulletins that may be issued.

12. Language of Bid

- 12.1. The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the PROCURING ENTITY, shall be written in English. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Bid, the English translation shall govern.

13. Eligibility Check

- 13.1. Unless otherwise indicated in the **BDS**, prior to Bid opening the Bidder must first pass an eligibility check. Only after a Bidder has satisfactorily passed this eligibility check will its Bid be included in the Bid opening. A Bidder shall include its eligibility documents in a separate envelope marked "Eligibility Documents" and shall be submitted together with the Technical and Financial Bid envelope on or before the deadline specified in the **BDS** provision for ITB Clause 28.1. At the Bid opening, the PROCURING ENTITY shall first open the envelope marked "Eligibility Documents". The eligibility documents are described in the following Clause.

13.2. Eligibility Documents

(a) Class "A" Documents –

Legal Documents

- (a.1) Department of Trade and Industry (DTI) business name registration or Securities and Exchange Commission (SEC) registration certificate, whichever may be appropriate under existing laws of the Philippines;
- (a.2) Valid and current Mayor's permit/municipal license;
- (a.3) Taxpayer's Identification Number;
- (a.4) Statement of the prospective Bidder that it is not "blacklisted" or barred from bidding by the Government or any of its agencies, offices, corporations or LGUs, including non-inclusion in the Consolidated Blacklisting Report issued by the GOP;
- (a.5) Other appropriate licenses as may be required by the PROCURING ENTITY concerned as indicated in the **BDS**;

Technical Documents

- (a.6) Statement of the prospective Bidder of all its ongoing and completed government and private contracts within the relevant period, where applicable, including contracts awarded but not yet started, if any. The statement shall state for each contract whether said contract is: Ongoing, Completed, or Awarded but not yet started: within the relevant period, where applicable. The statement shall include, for each contract, the following:
- (i) the name of the Contract;
 - (ii) date of the Contract;
 - (iii) kinds of goods sold;
 - (iv) amount of Contract and value of outstanding contracts;
 - (v) date of delivery;
 - (vi) end user's acceptance, if completed; and
 - (vii) specification whether prospective Bidder is a manufacturer, Supplier or distributor;

Financial Documents

- (a.7) The prospective Bidder's audited financial statements, stamped "received" by the BIR or its duly accredited and authorized institutions, for the immediately preceding calendar year, showing, among others, the prospective Bidder's total and current assets and liabilities;
- (a.8) Prospective Bidder's computation of its Net Financial Contracting Capacity (NFCC),

[(Current assets minus current liabilities) (K)] Minus the value of all outstanding contracts including those awarded but not yet started."

Where:

$K = 10$ (for a contract of one year or less duration)

or at the Bidder's option, a commitment from a licensed bank to extend a credit line, in the event of an award in the Bidder's favor, or at the Bidder's option a cash deposit certificate, of not less than the amount of the Approved Budget of the Contract.

(b) **Class “B” Documents –**

- (b.1) Valid joint venture agreement pursuant to ITB Clause 5.4, in case of a JV;
- (b.2) Letter authorizing the BAC or its duly authorized representative(s) to verify any or all of the documents submitted for the eligibility check; and
- (b.3) Current Tax Clearance Certificate or equivalent

13.3. If a Bidder has previously secured a Certification from the PROCURING ENTITY to the effect that it has previously submitted the above-enumerated Class “A” Documents, the said Certification may be submitted in lieu of the requirements enumerated in ITB Clause 13.2.

13.4. Unless otherwise indicated in the **BDS**, in the case of a prospective foreign Bidder, if eligible as described in ITB Clause 5, the eligibility requirements described in ITB Clauses 13.2(a.1) to 13.2(a.5) and 13.2(a.7) may be substituted with the appropriate equivalent documents issued by the country of the prospective Bidder concerned, such documents must be duly acknowledged or authenticated by the appropriate Philippine Consulate therein.

13.5. The prospective Bidder or its duly authorized representative shall certify under oath that each of the documents submitted in satisfaction of the eligibility requirements is an authentic and original copy, or a true and faithful reproduction or copy of the original, complete, and that all statements and information provided therein are true and correct.

13.6. The PROCURING ENTITY’s eligibility check will be limited to establishing the completeness of each prospective Bidder’s eligibility requirement by determining the presence or absence of the documents required against a checklist of requirements using non-discretionary pass/fail criteria. The eligibility check will not examine the substance of the contents of the documents. If a prospective Bidder submits the specific eligibility document required, it shall be rated as “passed” for that particular requirement. However, failure to submit a requirement or an incomplete or patently insufficient submission shall be considered “failed” for the particular eligibility requirement concerned.

14. Documents Comprising the Bid, Technical Proposals

14.1. The Technical Proposal, unless otherwise indicated in the **BDS**, shall contain the following information:

- (a) The Bid Security in accordance with ITB Clause 22;
- (b) Authority of the signatory;
- (c) Delivery/Work schedule;
- (d) Authorization Maintenance Center Certificate for Allison 501KB5 Gas Turbine Engine (for AMC’s)
- (e) Bio-data of Field Service Personnel assigned to the project.

- (f) Certification or authorization that its Field Service Personnel is qualified, authorized or certified to perform servicing, repair and maintenance on Allison 501KB5 Gas Turbine Engines.
- (g) Warranty Statement that the parts, components, accessories and services (“workmanship”) to be supplied and performed respectively, shall have a minimum warranty of twelve (12) months.
- (h) A sworn affidavit of compliance with the Disclosure Provision under Section 47 of R.A. 9184 as described in ITB Clause 4.2; and

15. Documents Comprising the Bid, Financial Proposal

15.1. The Financial Proposal shall contain the following:

- (a) Financial Proposal Submission Sheet
- (b) Valid “Standard Field Service Rates” for field service personnel.
- (c) List of all parts, components and accessories with the corresponding part numbers and cost for any supply and services required by the COMPANY.
- (d) List of all tools, equipment and instruments with the corresponding rental rates, if applicable, for any supply and services required by the COMPANY.

15.2. Unless indicated in the **BDS**, all Bids that exceed the ABC shall not be accepted.

16. Bid Submission: Technical and Financial Proposals

16.1. The Bidder shall submit their Bids through their authorized managing officer or their authorized representative using the appropriate Bid Form provided in Section VIII on or before the deadline specified in the ITB Clause 25.1, and in two (2) separate sealed envelopes, the first envelope containing the technical component of the Bid and the second envelope containing the financial component of the Bid addressed to the BAC of the PROCURING ENTITY. These forms must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.

16.2. The Bidder shall submit, as part of the Financial Proposal, the Price Schedules for GOODS and Related Services, according to their origin as appropriate, using the forms provided in Section VIII. Sample Forms.

16.3. The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the PROCURING ENTITY shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

17. Alternative Bids

17.1. Alternative Bids shall be rejected.

18. Bid Prices

- 18.1.** The Bidder shall complete the appropriate Price Schedules included herein, stating the unit prices, total price per item, the total amount and the expected countries of origin of the GOODS to be supplied under the Contract.
- 18.2.** The terms EXW, CIF, CIP, DDP etc., shall be governed by the rules prescribed in the current edition of INCOTERMS published by the International Chamber of Commerce, Paris.
- 18.3.** Prices indicated on the Price Schedule shall be entered separately in the following manner:
- (a) For GOODS offered from within the PROCURING ENTITY's country:
 - (a.1) the price of the GOODS quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable:
 - (i) on the components and raw material used in the manufacture or assembly of GOODS quoted ex works or ex factory; or
 - (ii) on the previously imported GOODS of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf and any PROCURING ENTITY country sales and other taxes which will be payable on the GOODS if the contract is awarded.
 - (a.2) the price for inland transportation, insurance, and other local costs incidental to delivery of the GOODS to their final destination;
 - (a.3) the price of other (incidental) services, if any, listed in the **BDS**.
 - (b) For GOODS offered from abroad:
 - (b.1) the price of the GOODS shall be quoted DDP named place of destination, in the Philippines, as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.
 - (b.2) the price of other (incidental) services, if any, listed in the **BDS**.
- 18.4.** Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation or price escalation on any account, unless otherwise specified in the **BDS**. A Bid submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 28.

19. Bid Currencies

- 19.1.** Prices shall be quoted in U.S. Dollars.

20. Documents Establishing the GOODS' Conformity to the Bidding Documents

20.1. The documentary evidence of conformity of the GOODS and services to the Bidding Documents may be in the form of literature, drawings, and data, and shall consist of:

- (a) a detailed description of the essential technical and performance characteristics of the GOODS;
- (b) a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuous functioning of the GOODS for a period to be specified in the **BDS**, following commencement of the use of the GOODS by the PROCURING ENTITY; and
- (c) an item-by-item commentary on the PROCURING ENTITY's Technical Specifications demonstrating substantial responsiveness of the GOODS and services to those specifications, or a statement of deviations and exceptions to the provisions of Section VII. Technical Specifications.

20.2. Standards for workmanship, process, material, and equipment, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the PROCURING ENTITY's satisfaction, that the substitutions are equivalent or as specified in the technical specifications and/ or Scheduled performance.

21. Bid Validity

21.1. Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) days from the date of the opening of Bids.

21.2. In exceptional circumstances, prior to the expiration of the Bid validity period, the PROCURING ENTITY may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. The Bid Security described in ITB Clause 22 should also be extended corresponding to, at least, the extension of the bid validity period. A Bidder may refuse the request without forfeiting its Bid Security, but his Bid shall no longer be considered for further evaluation and award. A Bidder granting the request shall not be required or permitted to modify its Bid.

22. Bid Security

22.1. Pursuant to ITB Clause 14, the Bidder shall furnish, as part of its Bid, a Bid security in the form and amount specified in the **BDS**. The PROCURING ENTITY shall prescribe the acceptable forms of Bid Security from among the following, from which acceptable forms the Bidder may choose:

- (a) cashier's or certified check, irrevocable letter of credit – 1%
- (b) bank guarantee – 1 ½% of ABC

- (c) surety bond – 2 ½% of ABC
- (d) foreign government guarantee – 100% of ABC

In case of a bank guarantee, the Bid Security shall be submitted using the Bid Security Form included in Section VIII. Sample Forms or another form acceptable to the PROCURING ENTITY. The form must include the complete name of the Bidder.

- 22.2.** The Bid Security should be valid for the period specified in the **BDS**. Any Bid not accompanied by an acceptable Bid security shall be rejected by the PROCURING ENTITY as non-responsive.
- 22.3.** No Bid Securities shall be returned to bidders after the opening of bids and before contract signing, except to those that failed to comply with any of the requirements to be submitted in the first bid envelope of the bid. Without prejudice on its forfeiture, Bid Securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid has signed the contract and furnished the Performance Security, but in no case later than the expiration of the Bid Security validity period indicated in the **BDS**.
- 22.4.** Upon signing and execution of the contract, pursuant to ITB Clause 38, and the posting of the performance security, pursuant to ITB Clause 39, the successful Bidder's Bid security will be discharged, but in no case later than the Bid security validity period as indicated in the **BDS**.
- 22.5.** The Bid security may be forfeited:
 - (a) If a Bidder:
 - (a.1) withdraws its Bid during the period of Bid validity specified by the Bidder on the Bid Form;
 - (a.2) does not accept the correction of errors pursuant to ITB; or
 - (a.3) Submission of eligibility requirements containing false information or falsified documents.
 - (a.4) Submission of Bids that contain false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of eligibility screening or any other stage of the public bidding.
 - (a.5) Allowing the use of one's name, or using the name of another for purposes of public bidding.
 - (a.6) Withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
 - (a.7) Refusal to clarify or validate in writing its Bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification.

- (a.8) Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
- (a.9) All other acts that tend to defeat the purpose of the competitive bidding, such as an eligible contractor not buying bid documents, and contractors habitually withdrawing from bidding or submitting letters of non-participation for at least three (3) times within a year, except for valid reasons.
- (b) In the case of a successful Bidder, if the Bidder fails:
 - (b.1) to sign the Contract in accordance with ITB Clause 38;
 - (b.2) to furnish performance security in accordance with ITB Clause 39; or
 - (b.3) any other reason stated in the **BDS**.

23. Format and Signing of Bids

- 23.1.** The Bidder shall prepare an original of the Eligibility Documents, Technical Proposal, Financial Proposal as described in ITB Clauses 13.2, 14, and 15, and clearly mark each “ORIGINAL – ELIGIBILITY DOCUMENTS”, “ORIGINAL - TECHNICAL PROPOSAL”, and “ORIGINAL – FINANCIAL PROPOSAL”, respectively. In addition, the Bidder shall submit copies of the Eligibility Documents, Technical Proposal, and Financial Proposal, and clearly mark them “COPY NO. ___ - ELIGIBILITY DOCUMENTS”, “COPY NO. ___ - TECHNICAL PROPOSAL”, and “COPY NO. ___ – FINANCIAL PROPOSAL”. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 23.2.** The original and copies of the Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract. All pages of the Bid, except for unamended printed literature, shall be initialed by the person or persons signing the Bid.
- 23.3.** Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

24. Sealing and Marking of Bids

- 24.1.** Unless otherwise indicated in the **BDS**, Bidders shall enclose their original Eligibility Documents described in ITB Clause 13.2 sealed in a separate envelope marked “ORIGINAL - ELIGIBILITY DOCUMENTS”, the original of their Technical Proposal in one sealed envelope marked “ORIGINAL - TECHNICAL PROPOSAL”, and the original of their Financial Proposal in another sealed envelope marked “ORIGINAL - FINANCIAL PROPOSAL”, sealing them all in an outer envelope marked “ORIGINAL BID”. Each copy of the Eligibility Documents, Technical Proposal, and Financial Proposal shall be similarly sealed duly marking the inner envelopes as “COPY NO. ___ - ELIGIBILITY DOCUMENTS”, “COPY NO. ___ - TECHNICAL PROPOSAL”, and “COPY NO. ___ – FINANCIAL PROPOSAL” and the outer envelope as “COPY NO. ___”, respectively. These envelopes

containing the original and the copies shall then be enclosed in one single envelope.

24.2. All envelopes shall:

- (a) contain the name of the contract to be bid in capital letters;
- (b) bear the name and address of the Bidder in capital letters;
- (c) be addressed to the PROCURING ENTITY's BAC in accordance with ITB Clause 0;
- (d) bear the specific identification of this bidding process indicated in the ITB Clause 1.2; and
- (e) bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of Bids, in accordance with ITB Clause 25.1.

24.3. If all envelopes are not sealed and marked as required, the PROCURING ENTITY will assume no responsibility for the misplacement or premature opening of the Bid.

25. Deadline for Submission of Bids

25.1. Bids must be received by the PROCURING ENTITY's BAC at the address and on or before the date and time indicated in the **BDS**.

26. Late Bids

26.1. Any Bid submitted after the deadline for submission and receipt of Bids prescribed by the PROCURING ENTITY, pursuant to ITB Clause 25, shall be declared "Late" and shall not be accepted by the PROCURING ENTITY.

27. Modification and Withdrawal of Bids

27.1. The Bidder may modify its Bid after it has been submitted; provided that the modification is received by the PROCURING ENTITY prior to the deadline prescribed for submission and receipt of Bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed, properly identified, linked to its original bid marked as "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" and stamped "received" by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.

A Bidder may, through a Letter of Withdrawal, withdraw its Bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received by the PROCURING ENTITY prior to the deadline prescribed for submission and receipt of Bids.

27.2. Bids requested to be withdrawn in accordance with ITB Clause 27.1 shall be returned unopened to the Bidders. A Bidder may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of Bids. A Bidder that withdraws its Bid shall not be permitted to submit another Bid, directly or indirectly, for the same contract.

- 27.3. No Bid may be modified after the deadline for submission of Bids. No Bid may be withdrawn in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Bid Form. Withdrawal of a Bid during this interval shall result in the forfeiture of the Bidder's Bid Security, pursuant to ITB Clause 22.5, and the imposition of administrative, civil and criminal sanctions as prescribed by R.A. 9184 and its IRR-A.

28. Opening and Preliminary Examination of Bids

- 28.1. The PROCURING ENTITY's BAC will open Bid envelopes in the presence of Bidders' representatives who choose to attend, at the time, on the date, and at the place specified in the **BDS**. The Bidders' representatives who are present shall sign a register evidencing their attendance.
- 28.2. Letters of withdrawal shall be read out and recorded during Bid opening, and the envelope containing the corresponding withdrawn Bid shall be returned to the Bidder unopened. If the withdrawing Bidder's representative is in attendance, the original Bid and all copies thereof shall be returned to the representative during the Bid opening. If the representative is not in attendance, the Bid shall be returned unopened by registered mail. The Bidder may withdraw its Bid prior to the deadline for the submission and receipt of Bids, provided that the corresponding Letter of Withdrawal contains a valid authorization requesting for such withdrawal, subject to appropriate administrative sanctions.
- 28.3. If the Bidding is subject to an Eligibility Check as described in ITB Clause 13.1, the PROCURING ENTITY shall not accept the Bids of ineligible Bidders. All eligible Bidders will have their Bids opened in accordance with the following paragraphs. A Bidder determined as "failed" has seven (7) calendar days upon written notice or, if present at the time of Bid opening, upon verbal notification, within which to file a request or motion for reconsideration with the BAC: Provided, however, that the motion for reconsideration shall not be granted if it is established that the finding of failure is due to the fault of the Bidder concerned: Provided, further, that the BAC shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. If a failed Bidder signifies his intent to file a motion for reconsideration, in the case of a Bidder who fails in the first (Technical) Bid envelopes, the BAC shall hold the second (Financial) Bid envelope of the said failed Bidder unopened and duly sealed until such time that the motion for reconsideration or protest has been resolved.
- 28.4. Outer envelopes marked "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" will be identified but not opened. The PROCURING ENTITY's BAC will announce the presence and type of modification from the information contained on the outer envelope.
- 28.5. The envelopes holding the Technical Proposals and modifications, if any, shall be opened one at a time, and the following read out and recorded:
- (a) the name of the Bidder;
 - (b) whether there is a technical modification or substitution;

- (c) the presence, amount and validity of the Bid security; and
 - (d) the presence or absence of each document comprising the technical proposal vis-à-vis a Checklist of the required documents.
- 28.6.** The PROCURING ENTITY's BAC shall determine each Bidder's compliance with the documents required to be submitted for the Technical Proposal of the Bid, as prescribed in ITB Clause 14. For this purpose, the PROCURING ENTITY's BAC shall check the submitted documents of each Bidder against a checklist of required documents to ascertain if they are all present in the first envelope, using a non-discretionary "pass/fail" criteria, as stated in the IAEB and this ITB. If a Bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, failure to submit a requirement, or an incomplete or patently insufficient submission, shall be considered "failed" for the particular requirement concerned. In case one or more of the above required documents in the first envelope of a particular Bid is missing, incomplete, or patently insufficient, the PROCURING ENTITY's BAC shall rate the Bid concerned as "failed" and immediately return to the Bidder concerned its second Bid envelope unopened. Otherwise, the PROCURING ENTITY's BAC shall rate the said first Bid envelope as "passed."
- 28.7.** Immediately after determining compliance with the requirements in the first envelope, the PROCURING ENTITY's BAC shall forthwith open the second bid envelope (Financial Proposals) and modifications, if any, of each remaining eligible bidder whose first bid envelope was rated "passed" and announce the total Bid price inclusive of any discounts that may be offered and modifications made. The second envelope of each complying bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the approved budget for the contract, unless otherwise provided in the **BDS**, the BAC shall rate the bid concerned as "failed." Only bids that are determined to contain all the bid requirements for both components shall be rated "passed" and shall immediately be considered for evaluation and comparison.
- 28.8.** The PROCURING ENTITY shall prepare the minutes of the proceedings of the Bid opening that shall include, as a minimum: (a) names of Bidders, their Bid price, Bid security, findings of preliminary examination; and (b) attendance sheet. The BAC members shall sign the abstract of Bids as read and the observers may witness the same. The minutes of the proceedings of the Bid opening shall be available to the public upon written request and payment of a specified fee to recover cost of materials.

29. Process to be Confidential

- 29.1.** Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise allowed in this ITB. The entire evaluation process shall be completed in not more than fifteen (15) days from the deadline for receipt of proposals.

30. Contacting the PROCURING ENTITY

- 30.1.** Subject to ITB Clause 31, no Bidder shall contact the PROCURING ENTITY on any matter relating to its Bid, from the time of Bid opening to the time the Contract is awarded.
- 30.2.** Any effort by a bidder to influence the PROCURING ENTITY in the PROCURING ENTITY's decision in respect of Bid evaluation, Bid comparison or contract award will result in the rejection of the Bidder's Bid.

31. Clarification of Bids

- 31.1.** Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award, unless otherwise indicated in the **BDS**.

32. Detailed Evaluation and Comparison of Bids

- 32.1.** The PROCURING ENTITY will undertake the detailed evaluation and comparison of Bids which have passed the opening and preliminary examination of Bids, pursuant to ITB Clause 28, in order to determine the Lowest Calculated Bid.
- 32.2.** The methodology of evaluation to determine the Lowest Calculated Bid is indicated in the **BDS**.
- 32.3.** Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.
- 32.4.** The PROCURING ENTITY's BAC shall immediately conduct a detailed evaluation of all Bids rated "passed," using non-discretionary pass/fail criteria, which shall include consideration of the following:
 - (a) The Bid must be complete. Except in case of partial Bids, Bids not addressing or providing all of the required items in the Schedule of Requirements including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) for the said item would mean that it is being offered for free to the PROCURING ENTITY; and
 - (b) Minor arithmetical corrections to consider computational errors, omissions and discounts if so allowed in the BDS. Any adjustment shall be calculated in monetary terms to determine the calculated prices.
- 32.5.** Unless otherwise indicated in the **BDS**, the PROCURING ENTITY's evaluation of Bids shall only be based on the Bid price quoted in accordance with ITB Clause 18.

33. Post-Qualification

- 33.1.** The PROCURING ENTITY shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid is qualified to perform the contract satisfactorily. The determination shall use non-discretionary “pass/fail” criteria and in accordance with the criteria listed in ITB Clause 7. In this case the said Bidder’s Bid shall be considered and declared the Lowest Calculated and Responsive Bid.
- 33.2.** The determination shall take into account the Bidder’s legal, financial, technical, and production capabilities. It shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder, pursuant to ITB Clause 14, as well as such other information as the PROCURING ENTITY deems necessary and appropriate.
- 33.3.** An affirmative determination shall be a prerequisite for award of the contract to the Bidder. A negative determination shall result in rejection of the Bidder’s Bid, in which event the PROCURING ENTITY shall proceed to the next Lowest Calculated Bid to make a similar determination of that Bidder’s capabilities to perform satisfactorily. If the second Bidder, however, fails the post qualification, the procedure for post qualification shall be repeated for the Bidder with the next Lowest Calculated Bid, and so on until the Lowest Calculated and Responsive Bid is determined for contract award.

34. PROCURING ENTITY’s Right to Reject Bids, Declare a Failure of Bidding, and not to Award the Contract

- 34.1.** Based on the following grounds, the PROCURING ENTITY reserves the right to reject any and all Bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:
- (a) If there is prima facie evidence of collusion between appropriate public officers or employees of the PROCURING ENTITY, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
 - (b) If the PROCURING ENTITY’s BAC is found to have failed in following the prescribed bidding procedures; or
 - (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the Government as follows: (i) if the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the head of the procuring entity; (ii) if the project is no longer necessary as determined by the head of the procuring entity; and (iii) if the source of funds for the project has been withheld or reduced through no fault of the PROCURING ENTITY.
- 34.2.** In addition, the PROCURING ENTITY may likewise declare a Failure of Bidding when:

- (a) No prospective bidder submits an LOI or no bids are received;
- (b) All prospective bidders are declared ineligible;
- (c) All bids fail to comply with all the bid requirements or fail post-qualification; or
- (d) The bidder with the Lowest Calculated Responsive Bid refuses, without justifiable cause to accept the award of contract, and no award is made.

35. Award Criteria

- 35.1.** Subject to ITB Clause 33, the PROCURING ENTITY shall award the contract to the Bidder whose Bid has been determined to be substantially responsive and has been determined to be the Lowest Calculated and Responsive Bid.

36. Prohibition Against Variation of Bid Quantities at Time of Award

- 36.1.** At the time of contract award, the PROCURING ENTITY shall not increase or decrease the quantity of goods originally specified in Section VII. Schedule of Requirements

37. Notice of Award

- 37.1.** Prior to the expiration of the period of Bid validity, the PROCURING ENTITY shall notify the successful Bidder in writing that its Bid has been accepted, through a Notice of Award received personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the **successful Bidder and submitted** personally or sent by registered mail or electronically to the PROCURING ENTITY.
- 37.2.** Upon the issuance of the Notice of Award to the successful Bidder, the PROCURING ENTITY shall promptly notify each unsuccessful Bidder of the fact of award to the successful Bidder, pursuant to ITB Clause 33.

38. Signing of the Contract

- 38.1.** At the same time as the PROCURING ENTITY notifies the successful Bidder that its Bid has been accepted, the PROCURING ENTITY shall send the Contract Form to the Bidder, which Contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.
- 38.2.** Within ten (10) calendar days from receipt of the Notice of Award, the successful Bidder shall sign and date the contract and return it to the PROCURING ENTITY.

39. Performance Security

- 39.1.** Within a maximum period of ten (10) calendar days from the receipt of the Notice of Award from the PROCURING ENTITY and in no case later than the signing of the contract between the successful Bidder and the PROCURING ENTITY, the successful Bidder shall furnish to the PROCURING ENTITY the Performance Security in accordance with

the Conditions of Contract, and in the Form prescribed in the Bidding Documents.

- 39.2.** Failure of the successful Bidder to comply with the requirement of ITB Clauses 38.2 or 39.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid security, in which event the PROCURING ENTITY shall initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the Lowest Calculated and Responsive Bid is identified and selected for contract award. However if no Bidder passed post-qualification, the BAC shall declare the bidding a failure and conduct a re-bidding with re-advertisement.

40. Notice to Proceed

- 40.1.** Within seven (7) calendar days from the date of approval of the Contract by the appropriate government approving authority, the PROCURING ENTITY shall issue its Notice to Proceed to the successful Supplier.
- 40.2.** The date of the Supplier's receipt of the Notice to Proceed will be regarded as the effective date of the Contract, unless otherwise specified in the **BDS**.

PNOC EXPLORATION CORPORATION

PROJECT : PURCHASE OF ALLISON GTE 1ST-STAGE GUIDE VANES
PURCHASE NO. : SG254-129
SECTION : SECTION III - BID DATA SHEET

PROJECT BACKGROUND

The PNOC Exploration Corporation (PNOC EC) owns and operates a 3MW Natural Gas-Fired Power Plant located in Barangay San Antonio, Echague, Isabela, Philippines. It is approximately 370 km north of Manila and is about ten (10) hours travel by land from the Ninoy Aquino International Airport (NAIA). PNOC EC intends to enter into a contract with the Original Engine Manufacturer (OEM) of the Power Plant's Allison 501KB5 gas turbine engine described below, or its Authorized Maintenance Centers (AMC) for the same engine brand, series and model specified, for the supply of parts and related services.

GAS TURBINE ENGINE SPECIFICATION

Brand : Rolls-Royce/Allison

Model : 501 KB5

Capacity : 3 MW

Serial no. : ASP1022

Supplier : Standard Aero Energy (formerly Dunlop Standard Energy)

Fuel : Natural gas

Running Hours : 19,504.142 hours (as of May 2006)

GTE Controls : Woodward Atlas PC

SCOPE OF SUPPLY AND SERVICES

The SUPPLIER shall provide technical expertise, labor, tools, equipment, instruments and parts for the servicing of COMPANY's Rolls-Royce/Allison 501KB5 gas turbine engine (GTE).

1. The scope of supply and work required by the COMPANY shall include but not limited to the following:
 - 1.1 Dismount turbine section from the combustion section of the engine, and inspect all vital engine parts at the COMPANY project site. Prepare and submit a report on the condition of the engine.
 - 1.2 Disassemble turbine section at SUPPLIER's service facility and replace (supply and installation) the 1st-stage and 4th stage turbine blades, and front and rear bearings including miscellaneous parts and items. All replacement parts to be supplied and installed shall have the same specifications as the original and have continuous operating temperature rating of 1895°F.
 - 1.3 Re-assemble turbine section and conduct all the necessary testing, dynamic balancing and other machine-related work needed at SUPPLIER's service facility. SUPPLIER shall prepare and submit testing results prior to the transshipment of the unit back to the Philippines.
 - 1.4 Re-assemble turbine, combustion and compressor sections of the engine at COMPANY's project site. Mount and align engine to COMPANY's speed reduction gearbox in the power plant engine room, and test and commission.
 - 1.5 Provide all the necessary equipment, tools, gadgets and instruments for the services required by the COMPANY.
 - 1.6 Provide a Field Service Personnel who is qualified, experienced and authorized among others, in the repair, trouble-shooting, removal, disassembly, and installation of Allison 501KB5 Series Model gas turbine engine components, parts and accessories; and testing and commissioning of same engine series model.
 - 1.7 Submit field reports after completion of each work activity.
2. The SUPPLIER shall also perform other related services normally provided by SUPPLIER and within the SUPPLIER's capabilities that the COMPANY may reasonably request.
3. The SUPPLIER shall perform all of the required services stipulated in the contract in a manner consistent with industry practices and standards.

PNOC EXPLORATION CORPORATION

PROJECT : SUPPLY OF GAS TURBINE ENGINE PARTS
PURCHASE NO. : SG06-371
SECTION : SECTION IV - GENERAL CONDITIONS OF THE
CONTRACT

1. Definitions

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

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

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

2. Corrupt, Fraudulent, and Coercive Practices

2.1. The PROCURING ENTITY as well as the bidders, contractors, manufacturers, suppliers, or distributors shall observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the PROCURING ENTITY:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (a.1) "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.
 - (a.2) "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.
 - (a.3) “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.
 - (a.4) “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;
- (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

- 3.1. 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. PROCURING ENTITY's Responsibilities

- 7.1. 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.
- 7.2. The PROCURING ENTITY shall pay all costs involved in the performance of its responsibilities in accordance with **GCC** Clause 6.

8. Prices

- 8.1. 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 27, or if applicable, adjustments authorized in accordance with the price adjustment provisions specified in the **SCC**.
- 8.2. 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-A.

9. Payment

- 9.1. Unless otherwise specified in the **SCC**, payments shall be made only upon a certification by the Head of the PROCURING ENTITY to the effect that the GOODS have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the PROCURING ENTITY to cover the Supplier's warranty obligations under this Contract as described in **GCC** Clause 15.3.
- 9.2. 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.
- 9.3. Pursuant to **GCC** Clause 9.2, 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.
- 9.4. Unless otherwise specified in the **SCC**, the currency in which payment is made to the Supplier under this Contract shall be in Philippine Pesos.

10. Taxes and Duties

- 10.1. A foreign Supplier shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.
- 10.2. A local Supplier shall be entirely responsible for all the necessary taxes, duties, license fees, and other such levies imposed for the completion of this Contract.

11. Performance Security

- 11.1. Unless otherwise specified in the **SCC**, 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 prescribed by the PROCURING ENTITY in any of the following forms:

- (a) Cash, certified check, cashier's check, manager's check, bank draft or irrevocable letter of credit in the amount of five percent (5%) of the Contract Price;
 - (b) Bank guarantee in the form prescribed in Section VIII. Sample Forms in the amount of ten percent (10%) of the Contract Price;
 - (c) Surety bond in the amount of thirty percent (30%) of the Contract Price; or
 - (d) Foreign government guarantee in the amount of one hundred percent (100%) of the Contract Price.
- 11.2. The proceeds of the performance security shall be payable to the PROCURING ENTITY as compensation for any loss resulting from the Supplier's failure to complete its obligations under this Contract.
- 11.3. The performance security shall be denominated in the currency provided in this Contract, or in a freely convertible currency acceptable to the PROCURING ENTITY and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the PROCURING ENTITY's country or abroad, acceptable to the PROCURING ENTITY, in the form provided in the Bidding Documents or another form acceptable to the PROCURING ENTITY;
 - (b) a cashier's or certified check; or
 - (c) such form as may be specified in the **SCC**.
- 11.4. The performance security will be discharged by the PROCURING ENTITY and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract and the issuance of certification to that effect by the PROCURING ENTITY, including any warranty obligations, unless otherwise specified in the **SCC**.

12. Use of Contract Documents and Information

- 12.1. 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.
- 12.2. Any document, other than this Contract itself, enumerated in **GCC** Clause 12.1 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.

13. Standards

- 13.1. The GOODS provided under this Contract shall conform to the standards mentioned in the 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.

14. Inspection and Tests

- 14.1. The PROCURING ENTITY or its representative shall have the right to inspect and/or to test the GOODS to confirm their conformity to the Contract specifications at no extra cost to the PROCURING ENTITY. The SCC and Error! Reference source not found. shall specify what inspections and/or tests the PROCURING ENTITY requires and where they are to be conducted. The PROCURING ENTITY shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 14.2. 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.
- 14.3. 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.
- 14.4. 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.
- 14.5. 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.

15. Warranty

- 15.1. 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 design and/or material required by the PROCURING ENTITY provides otherwise.
- 15.2. 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.

- 15.3. In order to assure that manufacturing defects shall be corrected by the Supplier, manufacturer, or distributor, as the case may be, a warranty shall be required from the Supplier for a minimum period of three (3) months, in the case of supplies, and one (1) year, in the case of equipment, after performance of the contract or other such period as may be specified in the **SCC**. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least ten percent (10%) 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: Provided, however, that the GOODS supplied are free from patent and latent defects and all the conditions imposed under the Contract have been fully met.
- 15.4. The PROCURING ENTITY shall promptly notify the Supplier in writing of any claims arising under this warranty.
- 15.5. 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 costs to the PROCURING ENTITY.
- 15.6. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in the **SCC**, 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.

16. Delays in the Supplier's Performance

- 16.1. 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.
- 16.2. 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 20, 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.
- 16.3. Except as provided under **GCC** Clause 20, 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 17, unless an extension of time is agreed upon pursuant to **GCC** Clause 27 without the application of liquidated damages.

17. Liquidated Damages

- 17.1. Subject to **GCC** Clauses 16 and 20, if the Supplier fails to deliver any or all of the GOODS and/or to perform the Services within the period(s) specified in this Contract, 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, a sum equivalent to the percentage specified in the **SCC** of the delivered

price of the delayed GOODS or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the PROCURING ENTITY may consider termination of the Contract pursuant to GCC Clause 21.

- 17.2. The applicable rate is one tenth (1/10) of one (1) percent of the cost of the unperformed portion for every day of delay. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, the procuring entity shall rescind the contract, without prejudice to other courses of action and remedies open to it.

18. Settlement of Disputes

- 18.1. 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.
- 18.2. 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.
- 18.3. 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.
- 18.4. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 18.5. 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.

19. Limitation of Liability

- 19.1. 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.

20. Force Majeure

- 20.1. The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 20.2. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Contractor

could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Contractor.

- 20.3. 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*.

21. Termination for Default

- 21.1. 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 contact 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.

- 21.2. In the event the PROCURING ENTITY terminates this Contract in whole or in part, for any of the reasons provided under GCC Clauses 21 to 24, 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.

- 21.3. 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.

22. Termination for Insolvency

- 22.1. 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.

23. Termination for Convenience

- 23.1. The PROCURING ENTITY may terminate this Contract, in whole or in part, at any time for its convenience. The Head of the PROCURING ENTITY may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.
- 23.2. 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.
- 23.3. 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.

24. Termination for Unlawful Acts

- 24.1. 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.

25. Procedures for Termination of Contracts

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

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the Head of the PROCURING ENTITY shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
 - (b.1) 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;
 - (b.2) the extent of termination, whether in whole or in part;
 - (b.3) an instruction to the Supplier to show cause as to why this Contract should not be terminated; and
 - (b.4) special instructions of the PROCURING ENTITY, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the Head of the PROCURING ENTITY a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the PROCURING ENTITY shall issue an order terminating this Contract;
- (e) The PROCURING ENTITY may, at anytime before receipt of the Supplier's verified position paper to withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the PROCURING ENTITY shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate; and
- (g) The Head of the PROCURING ENTITY may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the PROCURING ENTITY.

26. Assignment of Rights

26.1. 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.

27. Contract Amendment

27.1. 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.

28. Application

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

PNOC EXPLORATION CORPORATION

PROJECT : **SUUPPLY OF GAS TURBINE ENGINE PARTS**
PURCHASE NO. : **SG06-371**
SECTION : **SECTION V - SPECIAL CONDITIONS OF THE CONTRACT**

1. As the nature of the work is highly specialized, exclusive and critical, ONLY Rolls-Royce, the original engine manufacturer (OEM) of the gas turbine engine specified, and its Authorized Maintenance Centers (AMC) for Rolls Royce/Allison 501KB Series Model gas turbine engine are qualified to perform the scope of supply and services required by the COMPANY.
2. All AMCs shall submit together with its bid accreditation documents, a valid Certificate of Authority from Rolls-Royce stating that it is an Authorized Maintenance Center for performing maintenance, repair and overhaul services for Allison 501KB5 Series Model gas turbine engine.

RESPONSIBILITIES OF CONTRACTOR

3. SUPPLIER, if applicable or as coordinated or requested by COMPANY, shall be responsible in the exportation and/or importation, and assume all costs related to transshipment, customs duties and taxes, relative to SUPPLIER's equipment, tools, instruments, engine parts and accessories required under the contract. The corresponding cost shall be billed to the COMPANY. The SUPPLIER shall however support all its claims or billing statements to the COMPANY with original documentations and receipts.
4. SUPPLIER shall be responsible in the release, and assume the associated costs, of the unit for servicing from the Customs Office of the country where its Service Facility is situated. The SUPPLIER shall also be responsible for the delivery of the unit from the Customs Office to its Service Facility. The corresponding costs incurred by SUPPLIER shall be billed to COMPANY. Original documentations and receipts shall support all SUPPLIER's claims or billing statements to COMPANY.
5. SUPPLIER shall be responsible in the re-packaging, exportation and transshipment, and assume the associated costs, of the unit for repair back to the Philippines. Likewise, the corresponding costs shall be billed to the COMPANY supported by original documentations and receipts.
6. SUPPLIER shall be aware that COMPANY has in its inventory, several spare parts listed in the bid documents herewith that can be used in any services that may be required by COMPANY. SUPPLIER shall prioritize the utilization of COMPANY's parts. However, SUPPLIER shall supply the necessary replacement parts if the COMPANY supplied parts does not conform to manufacturer's standards and specification.
7. SUPPLIER shall also be responsible for any cost incidental to the mobilization and demobilization of the SUPPLIER's personnel, from the SUPPLIER's base or any point of origin as mutually agreed by both parties to the Project Site and vice versa. Likewise, the corresponding cost shall be billed to the COMPANY. The SUPPLIER shall support all relative claims or billing statements to the COMPANY with original documentations and receipts.

8. The SUPPLIER shall provide a list of all parts with the corresponding part numbers removed and replaced. Billing to the COMPANY on parts supplied shall be based on actual parts installed.
9. The SUPPLIER shall inspect other engine components and perform any services required by COMPANY in accordance with applicable gas turbine engine (GTE) manuals.
10. All test procedures conducted by SUPPLIER shall be in accordance with the manufacturer's standards and all test records shall be submitted to the COMPANY.
11. The SUPPLIER shall provide warranty for the parts, components and accessories to be supplied, including workmanship, for a minimum of twelve (12) months.
12. The SUPPLIER shall provide maintenance support for the parts, components, and accessories supplied for a minimum of twelve (12) months.

CONTRACTOR'S PERSONNEL

13. The SUPPLIER's Field Service Personnel shall have a minimum experience of five (5) years in the repair, trouble-shooting, removal and installation of Allison 501KB Series Model gas turbine engine parts; and testing and commissioning of same engine series model, among others.
14. The SUPPLIER shall at its sole cost and under its exclusive control maintain experienced and authorized Allison 501KB5 gas turbine technicians or personnel to perform the services pursuant to this Contract.
15. The SUPPLIER's applicable and current Field Service Rates, travel time or field service rates, for SUPPLIER'S field service personnel engaged by the COMPANY, shall start the day the service personnel departs from SUPPLIER's base as authorized by the COMPANY. The applicable rates shall continue for the duration of the services required until the return or arrival of the service personnel back to SUPPLIER's base as authorized by the COMPANY. The COMPANY prefers SUPPLIER's personnel assigned within the Pacific Rim (Asian region) to minimize travel time and to ensure immediate mobilization to project site.
16. The SUPPLIER shall bill the COMPANY only on the actual travel time and service hours rendered and applicable per diem and travel expenses. Official receipts with Tax Identification Numbers (TIN) shall support all expenses, and all expenses shall be reasonable and actual.
17. In the event the COMPANY finds the SUPPLIER's personnel incompetent and wishes to have such SUPPLIER's personnel replaced, the COMPANY shall serve a written request for replacement. Upon receipt of such request, the SUPPLIER shall immediately withdraw the concerned personnel and provide a replacement that shall be acceptable to the COMPANY, within seven calendar days. The SUPPLIER shall replace such personnel without cost to the COMPANY.
18. SUPPLIER shall furnish COMPANY with written reports as requested by COMPANY regarding the progress, results and analysis made in the course

of the services required in the contract. All records, data, reports and discussions obtained and written by SUPPLIER shall be the COMPANY's sole property and shall be held confidential by SUPPLIER and will not be divulged to anyone other than those persons designated by the COMPANY. Confidentiality shall be observed even after the termination or expiration of the contract.

RESPONSIBILITIES OF COMPANY

19. The COMPANY shall be responsible in the transshipment of the unit for servicing to SUPPLIER's country where SUPPLIER's service facility is situated.
20. The COMPANY shall provide adequate accommodation and meals for SUPPLIER's personnel during the performance of all related services required by COMPANY at the project site.
21. COMPANY personnel shall assist SUPPLIER's Field Service Personnel in any work required by COMPANY at its project site.

CONTRACTOR SUBMITTALS

22. For all AMC's, an Authorization Maintenance Center Certification for Allison 501KB5 model gas turbine engine from Rolls-Royce as discussed in Item 2 above. The certification should be valid and authenticated.
23. Bio-data of Field Service Personnel that may be assigned to the project. The information shall include educational background, years of experience, and the corresponding duties and responsibilities.
24. Certification or authorization that its Field Service Personnel is qualified, authorized or certified to perform servicing, repair and maintenance on Allison 501KB5 gas turbine engines.
25. Valid "Standard Field Service Rates" for field service personnel. Refer also to Bid Form herewith.
26. List of all parts, components and accessories with the corresponding part numbers for any supply and services required by the COMPANY. Refer also to Bid Form.
27. List of all tools, equipment and instruments with the corresponding rental rates, if applicable, for any supply and services required by the COMPANY. Refer also to Bid Form.
28. A delivery or completion schedule for each scope of work required by COMPANY.
29. Warranty Statement that the parts, components, accessories and services ("workmanship") to be supplied and performed respectively, shall have a minimum warranty period of twelve (12) months.

DELIVERY SCHEDULE

30. The SUPPLIER's personnel, parts, tools, instruments and equipment and shall be available within fourteen (14) calendar days upon receipt of COMPANY's "Notice to Proceed". The notice shall be in the form of fax or email message.

PNOC EXPLORATION CORPORATION

PROJECT : SUUPLY OF GAS TURBINE ENGINE PARTS
PURCHASE NO. : SG06-371
SECTION : SECTION VI – LIST OF REPLACEMENT PARTS

Item	Description	Part No.
1	Ring, back-up chamfered	6846641
2	Packing	AS3085-035
3	Packing	AS3085-033
4	Ring, back-up	6846642
5	Packing	AS3085-210
6	Packing	AS3085-264
7	Ring, retaining	6726656-356
8	Ring, retaining	23002417
9	Ring, retaining	23002418
10	Packing	AS3085-255
11	Packing	AS3085-252
12	Packing	AS3085-224
13	Bearing, Roller	6871201
14	Gasket, liner support mounting	6816047
15	Gasket, igniter mounting	6724494
16	Gasket, Thermocouple mounting	6898313
17	Gasket, Fuel nozzle	6739373
18	Ring air bleed valve piston	6814414
19	Spring, piston ring expanding	6828170
20	Gasket, oil inlet	MS27196-20
21	Gasket, oil outlet	6871061
22	Filter assy, pleated	6870163
23	Packing	20315AF
24	Packing	20305AF
25	Nut, self locking, alumel	6746975
26	Nut self locking, chromel	6746974
27	Nut, self locking	6848574

Note: These parts are well preserved at PNOC EC's SAGPP warehouse.

PNOC EXPLORATION CORPORATION

PROJECT : **SUPPLY OF GAS TURBINE ENGINE PARTS**
CONTRACT NO. : **SG06-371**
SECTION : **SECTION VII – SAMPLE FORMS**

The Bidder shall complete and submit with its Bid the **Bid Form** and **Price Schedules** in accordance with **ITB** Clause 18 with the requirements of the Bidding Documents and the format set out in this Section.

When requested in the BDS, the Bidder should provide the **Bid Security**, either in the form included hereafter or in another form acceptable to the Entity, pursuant to **ITB** Clause 22.1.

The **Contract Form**, when it is finalized at the time of contract award, should incorporate any corrections or modifications to the accepted Bid resulting from price corrections (e.g., payment schedule and spare parts if used subject to **ITB** Clause 34.4 or quantity variations pursuant to **ITB** Clause 38. The Price Schedule and Schedule of Requirements deemed to form part of the contract should be modified accordingly.

The **Performance Security Form** and **Bank Guarantee Form for Advance Payment** should not be completed by the Bidders at the time of their Bid preparation. Only the successful Bidder will be required to provide performance security and bank guarantee for advance payment in accordance with one of the forms indicated herein or in another form acceptable to the PROCURING ENTITY and pursuant to **GCC** Clause 11 and its corresponding SCC provision. Bank Guarantee Form for Advance Payment shall be applicable only to foreign funded projects.

The sworn affidavit must be completed by all Bidders in accordance with **ITB** Clause 4.2 failure to do so and submit it with the Bid shall result in the rejection of the Bid and the Bidder's disqualification.

BID FORM

Date: _____

To: PNOC Exploration Corporation
PNOC Bldg. 1, Energy Center,
Fort Bonifacio, Taguig City

Gentlemen and/or Ladies:

Having examined the Bidding Documents including Bid Bulletin Numbers *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to *[insert name of the Project]* in conformity with the said Bidding Documents for the sum of *[total Bid amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

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 22.2 and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:¹

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

(if none, state "None")

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

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

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

Dated this _____ day of _____ 20_____.

[signature]

[in the capacity of]

Duly authorized to sign Bid for and on behalf of _____

BREAKDOWN OF BID PROPOSAL

I.	1 st Stage Turbine Blades	:	_____
II.	2 nd Stage Turbine Blades	:	_____
III.	Front and Rear Turbine Bearings	:	_____
IV.	Miscellaneous parts, accessories & consumables	:	_____
V.	Mobilization and Demobilization of Field Personnel	:	_____
VI.	Field Service Travel Time Cost <i>(*estimated cost only & attach Field Service Rates)</i>	:	_____
VII.	Field Service Cost <i>(*estimated cost only & attach Field Service Rates)</i>	:	_____
VIII.	Servicing & Equipment Charges at CONTRACTOR's Facility (if applicable)	:	_____
	TOTAL, US\$:	_____

Total bid amount in words:

Note:

Bidder to attach the list of tools, instruments and equipment with corresponding rental rates if applicable; and valid or current Standard Field Service Rates.

Form of Bid Security (Bank Guarantee)

WHEREAS, *[insert name of Bidder]* (hereinafter called the "Bidder") has submitted his bid dated *[insert date]* for the *[insert name of the Project]* (hereinafter called the "Bid").

KNOW ALL MEN by these presents that We *[insert name of Bank]* of *[insert name of Country]* having our registered office at *[insert address]* (hereinafter called the "Bank" are bound unto **PNO Exploration Corporation** (hereinafter called the "Entity") in the sum of *[insert Amount]* for which payment well and truly to be made to the said Entity the Bank binds himself, his successors and assigns by these presents.

SEALED with the Common Seal of the said Bank this _____ day of _____ 20____.

THE CONDITIONS of this obligation are:

1. If the Bidder:
 - (a) withdraws his Bid during the period of bid validity specified in the Form of Bid; or
 - (b) does not accept the correction of arithmetical errors of his bid price in accordance with the Instructions to Bidder; or
2. If the Bidder having been notified of the acceptance of his bid by the Employer during the period of bid validity:
 - (a) fails or refuses to execute the Contract Form in accordance with the Instructions to Bidders, if required; or
 - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders.

We undertake to pay to the Entity up to the above amount upon receipt of his first written demand, without the Entity having to substantiate his demand, provided that in his demand the Entity will note that the amount claimed by him is due to him owing to the occurrence of one or both of the two (2) conditions, specifying the occurred condition or conditions.

The Guarantee will remain in force up to and including the date 28 days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Entity, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE _____ SIGNATURE OF THE BANK _____

WITNESS _____ SEAL _____

(Signature, Name and Address)

Contract Agreement Form

THIS AGREEMENT made the ____ day of _____ 20____ between **PNOC Exploration Corporation** of the Philippines (hereinafter called “the Entity”) of the one part and *[name of Supplier]* of *[city and country of Supplier]* (hereinafter called “the Supplier”) of the other part:

WHEREAS the Entity invited Bids for certain goods and ancillary services, viz., *[brief description of goods]* and has accepted a Bid by the Supplier for the supply of those goods and services in the sum of *[contract price in words and figures]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a) the Bid Form and the Price Schedule submitted by the Bidder;
 - (b) the Schedule of Requirements;
 - (c) the Technical Specifications;
 - (d) the General Conditions of Contract;
 - (e) the Special Conditions of Contract; and
 - (f) the Entity’s Notification of Award.
3. In consideration of the payments to be made by the Entity to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Entity to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Entity hereby covenants to pay the Supplier in consideration of the provision of the goods and services 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 WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of the Republic of the Philippines on the day and year first above written.

Signed, sealed, delivered by _____ the _____ (for the Entity)

Signed, sealed, delivered by _____ the _____ (for the Supplier).

Form of Performance Security (Bank Guarantee)

To : **PNOC Exploration Corporation**
PNOC Bldg. 1, Energy Center,
Fort Bonifacio, Taguig City

WHEREAS, *[insert name and address of Supplier]* (hereinafter called the "Supplier") has undertaken, in pursuance of *[insert Contract No.]* dated *[insert date]* to execute the *[insert name of Project]* (hereinafter called the "Contract");

AND WHEREAS, it has been stipulated by you in the said Contract that the Supplier shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS, we have agreed to give the Supplier such a Bank Guarantee;

NOW THEREFORE, we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Supplier, up to a total of *[insert amount of guarantee]*² proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *[insert amount of guarantee]* as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Supplier before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract to be performed thereunder or of any of the Contract documents which may be made between you and the Supplier shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until the date of your issuance of the Notice of Final Acceptance.

SIGNATURE AND SEAL OF THE GUARANTOR _____

NAME OF BANK _____

ADDRESS _____

DATE _____

Affidavit of Disclosure of No Relationship

[See Clause 4.2 of the Instructions to Bidders.]

I, *[name of the affiant]*, *[state nationality]*, of legal age, *[state status]*, after having been duly sworn in accordance with law, do hereby depose and state that:

1. I am the authorized representative of *[insert name of Bidder]* with office address at *[insert address]* an established and reputable Supplier of *[insert name and/or description of the GOODS]* for the bidding of the *[insert name of the Project]* by **PNOC Exploration Corporation** (hereinafter referred to as the “PROCURING ENTITY”);
2. None of the *[officers / directors / controlling stockholders / members / owners]* of the *[name of the Bidder]* are related by consanguinity or affinity up to the third civil degree to the Head of the PROCURING ENTITY or any of the PROCURING ENTITY’s officers or employees having direct access to information that may substantially affect the result of the bidding, such as, but not limited to, the members of the Bids and Awards Committee (BAC), the members of the Technical Working Group (TWG), the BAC Secretariat, the members of the Project Management Office (PMO), and the designers of the project.
3. I am making this statement in compliance with Section 47 of the Implementing Rules and Regulations Part A of Republic Act 9184, and in accordance with the requirements of **PNOC Exploration Corporation**.
4. I understand and accept that any false statement in this respect will render *[name of the Bidder]*, and its authorized officers liable for prosecution to the full extent of the law.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20__, in the City of _____, Philippines.

Affiant

SUBSCRIBED AND SWORN to before me this _____ day of _____, Philippines.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 20__

PNOC EXPLORATION CORPORATION

CHECKLIST OF ELIGIBILITY REQUIREMENTS

PNOC EC Purchasing (REV 02/28/05 ECP)

SUPPLIER'S NAME	DATE OF ORGANIZATION	
SUPPLIER'S ADDRESS	Telephone Number (s)	Fax Number (s)
ELIGIBILITY REQUIREMENTS		
Requirements should be compiled in folders and to be submitted in TWO (2) sets		
<u>CLASS "A" DOCUMENTS</u>	<u>DOCUMENTS REQUIRED</u>	
LEGAL DOCUMENTS	<input type="checkbox"/> 1. Department of Trade and Industry (DTI) Business Name Registration , in case of Single Proprietorship; OR Articles of Incorporation/Partnership and By-Laws with SEC Registration Certificate , in the case of Corporations/Partnerships;	
	<input type="checkbox"/> 2. Valid and current Mayor's Permit / Municipal License ;	
	<input type="checkbox"/> 3. Taxpayer's Identification Number ;	
	<input type="checkbox"/> 4. Statement of the prospective bidder that it is not "blacklisted" or barred from bidding by the Government or any agencies, offices, corporations or LGUs;	
	<input type="checkbox"/> 5. Current Tax Clearance Certificate ;	
TECHNICAL DOCUMENTS	<input type="checkbox"/> 6. Statement of the applicant's all on-going, completed or awarded but not yet started government and private contracts in the last three (3) years. The statement shall include, for each contract, the following:	
	i. the name of the contract;	
	ii. date of the contract;	
	iii. kinds of goods sold;	
	iv. amount of the contract and value of outstanding contracts;	
	v. date of delivery;	
	vi. end-user's acceptance, if completed; and	
	vii. specification whether prospective bidder is a manufacturer, supplier or distributor	
FINANCIAL DOCUMENTS	<input type="checkbox"/> 7. Audited Financial Statements (including the ITR) for the past calendar year stamped "received" by the BIR or its duly accredited and authorized institutions showing the applicant's total and current assets and liabilities;	
	<input type="checkbox"/> 8. Net Financial Contracting Capacity (NFCC) or if NFCC is insufficient, a commitment from a licensed bank to extend to it a credit line if awarded the contract to be bid, or a cash deposit certificate , which shall be at least equal to ten percent (10%) of the approved budget for the contract to be bid	
<u>CLASS "B" DOCUMENTS</u>	<u>DOCUMENTS REQUIRED</u>	
OTHERS	<input type="checkbox"/> 9. Joint Venture Agreement , in case of a joint venture;	
	<input type="checkbox"/> 10. Letter of Authorization for the BAC to verify any or all documents submitted for the eligibility check;	
<i>Note: The eligibility requirements for foreign manufacturers, suppliers, distributors and contractors may be substituted by the appropriate equivalent documents issued by the country of the foreign manufacturer, suppliers, distributor and contractor concerned, which documents must be duly acknowledged or authenticated by the Philippine Consulate therein.</i>		

BIDDING OF GAS TURBINE ENGINE PARTS

Checklist of Technical Proposal

- Bid Security
- Authority of Signing Official
- Delivery/Work Schedule
- Affidavit of Disclosure of No Relationship (*see sample form*)
- Authorization Maintenance Center Certification
- Certification of Field Service Personnel
- Bio-data of Field Service Personnel
- Warranty Statement for 12 months

Checklist of Financial Proposal

- Bid Form and Breakdown of Bid Proposal (*see sample form*)
- Field Service Rates
- List of Service Parts required w/ corresponding cost
- List of tools, instruments and equipment w/ corresponding rental rates if applicable.