



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

BIDS AND AWARDS COMMITTEE

Resolution No. 2018- 80

WHEREAS, the Department of Budget and Management-Bids and Awards Committee (DBM-BAC) conducted a public bidding for the Project, "Anti Distributed Denial-of-Service/Web Application Firewall Solution," with an Approved Budget for the Contract of P16,732,000.00 for twelve (12) months;

WHEREAS, on October 30, 2018, an Invitation to Bid was posted on the Philippine Government Electronic Procurement System website, the DBM website and all DBM bulletin boards;

WHEREAS, three (3) prospective bidders, namely: (i) PLDT; (ii) Trends and Technologies Inc.; and (iii) Remax, responded to the said Invitation and attended the Pre-bid Conference on November 6, 2018;

WHEREAS, Supplemental/Bid Bulletin No. 1 was issued on November 13, 2018 to clarify, modify or amend items in the Bidding Documents;

WHEREAS, during the submission and opening of bids on November 20, 2018, only Trends and Technologies Inc. submitted a bid;

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

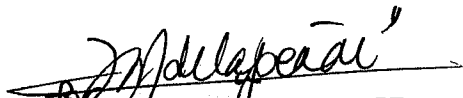
WHEREAS, after evaluation of the financial proposal, the BAC declared the submission of Trends and Technologies Inc. as the Single Calculated Bid in the amount of P15,778,000.00;

WHEREAS, after careful evaluation, validation and verification of the eligibility, technical and financial proposals of the bid, the BAC found that the submission of Trends and Technologies Inc. passed all the criteria for post-qualification; thus, it was declared as the Single Calculated and Responsive Bid in the amount of P15,778,000.00;

NOW, THEREFORE, for and in consideration of the foregoing premises, the BAC **RESOLVED**, as it hereby **RESOLVED**, to recommend to the Secretary of Budget and Management that the contract for the Project, "Anti Distributed Denial-of-Service/Web Application Firewall Solution," be awarded to Trends and Technologies Inc., in accordance with Republic Act No. 9184 and its 2016 Revised Implementing Rules and Regulations.

ADOPTED, this 29th day of November 2018 at the Department of Budget and Management, General Solano St., San Miguel, Manila.


ANDREA CELENE M. MAGTALAS
End-user Representative


VIRGILIO A. UMPACAN, JR.
B.U.D.G.E.T. Representative


EDEN D. PANGILINAN
Member

not present
YOLANDA R. REYES
Member

not present
ROSEMARIE D. PAGALA
Alternate Member


RYAN S. LITA
Vice Chairperson


CLARITO ALEJANDRO D. MAGSINO
Chairperson

- Approved
 Disapproved


BENJAMIN E. DIOKNO
Secretary, DBM 



Date: _____



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

BIDS AND AWARDS COMMITTEE

NOTICE OF AWARD

November 29, 2018

MR. GERRY A. BAQUIRAN

Account Manager

Trends and Technologies, Inc.
6F Trafalgar Plaza
105 HV Dela Costa St.
Salcedo Village, Makati City

Dear **Mr. Baquiran:**

We are pleased to inform you that the contract for the Project, "Anti Distributed Denial-of-Service/Web Application Firewall Solution," is hereby awarded to Trends and Technologies, Inc. in the amount of P15,778,000.00.

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

Very truly yours,

S. C. C.
BENJAMIN E. DIOKNO
Secretary *fills*





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

BIDS AND AWARDS COMMITTEE

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

Very truly yours,

S. C. C.
BENJAMIN E. DIOKNO
Secretary *plls*



Gerry Baquiran
GERRY BAQUIRAN
DEC 13, 2018

CONTRACT No. 2018-35
ANTI DISTRIBUTED DENIAL-OF-SERVICE/WEB APPLICATION
FIREWALL SOLUTION

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

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

- and -

TRENDS AND TECHNOLOGIES INC., a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at 6th Floor, Trafalgar Plaza, 105 H.V. Dela Costa St., Salcedo Village, Makati City, Metro Manila, represented by **GERRY A. BAQUIRAN**, hereinafter referred to as the "**SUPPLIER**";

WITNESSETH:

WHEREAS, the DBM conducted a public bidding for the Project, "Anti Distributed Denial-of-Service/Web Application Firewall Solution," and the bid of the Supplier is in the amount of Fifteen Million Seven Hundred Seventy Eight Thousand Pesos (P15,778,000.00), hereinafter called the "Contract Price";

WHEREAS, the Notice of Award was issued to the Supplier last December 13, 2018, and the Supplier posted its performance security on DECEMBER 20, 2018;

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

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

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



3. In consideration of the payments to be made by the DBM to the Supplier, the Supplier hereby covenants with the DBM to provide the Goods and Services and to remedy defects therein in conformity with the provisions of the Contract.
4. The DBM hereby covenants to pay the Supplier, in consideration of the provision of the Goods and Services 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 signed this Contract on this ___ day of _____, 2018 at General Solano St., San Miguel, Manila, Philippines.

DEPARTMENT OF BUDGET
AND MANAGEMENT

by:


BENJAMIN E. DIOKNO
Secretary

TRENDS AND TECHNOLOGIES INC.

by:

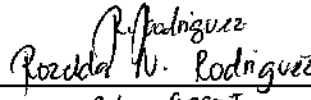

GERRY A. BAQUIRAN
Account Manager

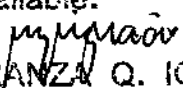
SIGNED IN THE PRESENCE OF


ANDREA CELENE M. MAGTALAS

Director IV

Information and Communications Technology
Systems Service


Rozella N. Rodriguez
Sales Support

Funds Available:

ESPERANZA Q. IGNACIO
Chief Accountant

ORS# 06101101 2018 - 12.2949

12/18/18

ACKNOWLEDGMENT

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

BEFORE ME, a Notary Public for and in the City of _____, Philippines on this _____ day of _____, 2018 personally appeared the following:

NAME	VALID ID	VALID UNTIL
BENJAMIN E. DIOKNO	DBM ID No. 0005	
GERRY A. BAQUIRAN	1102-08-016428	FEB 05, 2022

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

This CONTRACT for the Anti Distributed Denial-of-Service/Web Application Firewall Solution was signed by the parties, and their material witnesses on each and every page thereof.

WITNESS MY HAND AND SEAL this ____ day of _____, 2018.

Doc. No _____;
Page No _____;
Book No _____;
Series of 2018.

Bid Form

Date: November 19, 2018
Invitation to Bid No.: DBM-2018-27

To: *Department of Budget and Management – Bids and Awards Committee*
GENERAL SOLANO STREET, SAN MIGUEL, MANILA

Gentlemen and/or Ladies:

Having examined the Bidding Documents including Bid Bulletin Number 1, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to Supply, Delivery and Installation of the Procurement of, “**Anti Distributed Denial-of-Service/WEB Application Firewall Solution**,” in conformity with the said Bidding Documents for the sum of *Fifteen Million Seven Hundred Seventy Eight Thousand Pesos (Php 15,778,000.00)* details is shown below or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

Particulars	Total Price (Inclusive of vat)
Anti Distributed Denial-of-Service/WEB Application Firewall Solution	Php 15,778,000.00

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

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


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

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

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

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

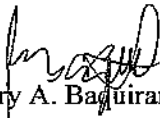
We likewise certify/confirm that the undersigned, is granted full power and authority by the Trends and Technologies Inc, to participate, submit the bid, and to sign and execute the ensuing contract on the latter's behalf for **Anti Distributed Denial-of-Service/WEB Application Firewall Solution** of the **Department of Budget and Management**.


GERRY BAQUITAN
KEY ACCOUNT MANAGER

TRENDS AND TECHNOLOGIES INC.

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

Dated this November day of 19, 2018.


Gerry A. Baquiran

Key Account Manager

Duly authorized to sign Bid for and on behalf of Trends and Technologies Inc.

Section VI. Schedule of Requirements

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

Item	Description	Unit	Delivery Date
1	Delivery, Installation, Configuration and Operationability of Anti Distributed Denial-of-Service/Web Application Firewall Solution	2	Within five (5) months after receipt of the Notice to Proceed
2	Anti Distributed Denial-of-Service/Web Application Firewall cloud deployment and related configuration.	N/A	Within five (5) months after receipt of the Notice to Proceed
3	Training on basic administration and configuration of Anti-DDoS/Web Application Firewall	N/A	To be scheduled by the DBM-ICTSS prior to the engagement of the contract

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

TRENDS AND TECHNOLOGIES INC.
Name of Company/Bidder

Gerty A. Barquitan
Signature over Printed Name of Representative

NOV. 19, 2018
Date

Section VII. Technical Specifications

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

Specification	Bidder's Statement of Compliance
I. Specifications <i>(see attached Annex A, item IV)</i>	COMPLY
II. Scope of Services <i>(see attached Annex A, item V)</i>	
III. Service Level Agreement <i>(see attached Annex A, item VI)</i>	
IV. Warranties of the Contractor <i>(see attached Annex A, item VII)</i>	
V. Confidentiality of Data <i>(see attached Annex A, item VIII)</i>	
VI. Terms of Payment <i>(see attached Annex A, item IX)</i>	
VII. Pre-termination of the Contract <i>(see attached Annex A, item X)</i>	

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

TRENDS AND TECHNOLOGIES INC.
Name of Company/Bidder

[Signature]
Signature over Printed Name of Representative

NOV. 19, 2018
Date

DETAILED TECHNICAL SPECIFICATION

I. PROJECT TITLE

Procurement of Anti Distributed Denial-of-Service/Web Application Firewall Solution

II. OBJECTIVE

To provide full protection from multi-vector Distributed Denial-of-Service (DDoS) and web application attacks directed to any layer (i.e. network, server or application). To ensure zero disruptions to the normal user experience and maintain excellent user response time and to mitigate more advanced, resource-exhaustion attacks in real time.

III. DELIVERY PERIOD

The delivery, installation, configuration and operationability of Anti DDoS / Web Application Firewall (WAF) Solution shall be within five (5) months from receipt of the Notice to Proceed (NTP).

IV. SPECIFICATIONS

4.1 The Hybrid Anti-DDoS/WAF Solution shall have the following features:

4.1.1 Infrastructure and Mitigation Technologies

- 4.1.1.1 Network Capability (At least 1Tb per Second)
- 4.1.1.2 At Least 50Mbps Clean Bandwidth
- 4.1.1.3 Cloud Scrubbing Protection Technology
- 4.1.1.4 Security Operations Centers
- 4.1.1.5 Web Application Protection Capabilities:
 - 4.1.1.5.1 Website or web application protection against SQL injection, cross site scripting (XSS), illegal resource access, remote file inclusion (RFI), session hi-jacking, buffer overflow and other vulnerabilities identified by the Open Web Application Security Project (OWASP)
 - 4.1.1.5.2 Form Input protection
 - 4.1.1.5.3 Server Cloaking
 - 4.1.1.5.4 Data Theft Protection
 - 4.1.1.5.5 Cross Request Forgery protection (CSRF)

- 4.1.1.5.6 Tampering protection
- 4.1.1.5.7 Inspects and handles Web protocols (Hypertext Transfer Protocol / Hypertext Transfer Protocol over Secure Socket Layer (HTTP/HTTPS), File Transfer Protocol/ File Transfer Protocol over Secure Socket Layer (FTP/FTPS), Extensible Markup Language/ Simple Object Access Protocol (XML/SOAP), Hypertext Transfer Protocol / Dynamic HTML (HTML/DHTML), Cascading Style Sheet (CSS), etc.
- 4.1.1.5.8 Application Programming Interface (API) protection
- 4.1.1.5.9 Executes SSL offloading, Load balancing & Content routing
- 4.1.1.6 Behavioral Analysis
- 4.1.1.7 Automatic Bot Discernment
- 4.1.1.8 IP Blocking
- 4.1.1.9 Border Gateway Protocol (BGP)
- 4.1.1.10 Domain Name Service (DNS)
- 4.1.1.11 Web/Reverse Proxy
- 4.1.1.12 Deep Packet Inspection
- 4.1.2 Comprehensive Protection Against Any Type of DDoS Attack such as but not limited to:
 - 4.1.2.1 Volumetric Attack (for cloud only)
 - 4.1.2.2 Transmission Control Protocol (TCP) SYN+ACK
 - 4.1.2.3 TCP FIN
 - 4.1.2.4 TCP RESET
 - 4.1.2.5 TCP ACK
 - 4.1.2.6 TCP ACK + PSH
 - 4.1.2.7 TCP Fragment
 - 4.1.2.8 User Datagram Protocol (UDP)
 - 4.1.2.9 Internet Group Management Protocol (IGMP)
 - 4.1.2.10 Hypertext Transfer Protocol (HTTP) Flood

- 4.1.2.11 Brute Force
- 4.1.2.12 Connection Flood
- 4.1.2.13 Slowris
- 4.1.2.14 Spoofing
- 4.1.2.15 Internet Control Message Protocol (ICMP)
- 4.1.2.16 Mixed SYN + UDP or ICMP + UDP flood
- 4.1.2.17 Ping of Death
- 4.1.2.18 Smurf
- 4.1.2.19 Reflected ICMP and UDP
- 4.1.2.20 Teardrop
- 4.1.2.21 Zero-day DDoS attacks
- 4.1.2.22 Attacks targeting Domain Name System (DNS) Servers
- 4.1.2.23 DNS flood
- 4.1.2.24 Attacks targeting Apache, Windows or its equivalent

4.1.3 Deployment & Service Methods

- 4.1.3.1 Always On
- 4.1.3.2 Cloud/On-Premise Deployment (Bring your own license)
- 4.1.3.3 Unlimited Mitigation Services
- 4.1.3.4 On Demand
- 4.1.3.5 Customized Mitigation Strategy
- 4.1.3.6 On-premise/Cloud Scalability
- 4.1.3.7 High Availability

4.1.4 Cloud Management

4.1.5 Centralized Management Dashboard

4.1.6 Real time Reports and alerts

4.1.7 Forensic capabilities

4.1.8 Produces reports that can be converted into different file formats (e.g html, pdf, csv) on a specified schedule. Reports generated can either be Template-based or customized.

4.2 Anti-DDoS / Web Application Firewall (WAF) Certification:

4.2.1 Must be included in the latest leader's quadrant in Gartner's Magic Quadrant.

4.2.2 It must obtain "recommended" result in the latest NSS Labs comparative analysis.

4.3 Branded and brand new IT equipment such as, but not limited to, the following:

ITEM	
4.3.1	Two (2) units of WAF/Anti-DDoS Appliance with the following minimum specifications: <ul style="list-style-type: none">• 16 GB RAM• 500 GB HDD• Gigabit / 10 Gigabit Ethernet• redundant hot-swappable power supply
4.3.3	One (1) unit of Layer 3 Switch with the following minimum specifications: <ul style="list-style-type: none">• Twenty-four (24) Gigabit /10 Gigabit Ethernet Ports• Redundant hot-swappable power supply

V. SCOPE OF SERVICES

- 5.1 The CONTRACTOR should have a local distributor representative in the Philippines that has been operating for at least five (5) years now.
- 5.2 The CONTRACTOR shall conduct pre-implementation meeting with DBM representatives so that all the necessary preparations, ideal set-up, contractor's familiarization of the computing environment, and other implementation matters are clearly discussed and finalized.
- 5.3 The CONTRACTOR shall deliver, install, configure and make operational the Anti-DDoS/WAF Solution within sixty (60) calendar days from issuance of Notice to Proceed (NTP).

The CONTRACTOR must have the following Certified Professionals for the Anti-DDoS/WAF Solution installation, commissioning (testing and configuration) and alignment to the DBM enterprise network:

- Manufacturer-Certified Security Administrator;
- Manufacturer-Certified Technology Specialists;
- Manufacturer-Certified Solution Expert; and
- Certified Network Security Administrator and/or Professional.

A Certificate of Acceptance shall be issued by the Director of Information and Communication Technology Systems Service (ICTSS).

5.4 Technical Support

5.4.1 The CONTRACTOR must be able to provide a 3-tier support:

- Local reseller as the first-level support
- Distributor as the second-level support
- Principal as the third-level of support

5.4.2 The CONTRACTOR shall provide/render twenty-four hours a day, seven days a week (24x7) technical support service during warranty period, as specified in Section 7.9 of this TOR. Technical support can be delivered in a form of telephone call, electronic mail, and/or on-site support.

5.4.3 At least one on-site/on-call Technical Support personnel is certified for the solution/equipment. The CONTRACTOR must submit the required Certification.

5.4.4 The CONTRACTOR shall resolve every problem on software and hardware components within four (4) hours after it was reported during the warranty period. It shall refer to a condition wherein the reported problem is resolved by the CONTRACTOR to the satisfaction of the DBM. Problem and resolution shall be logged in the DBM Help Desk Facility.

5.5 The CONTRACTOR shall replace the defective parts/accessories of the same or better brand, model features, quality and functionalities if not repaired within the allowable resolution time of four (4) working hours during the warranty period at no additional cost to the DBM.

5.6 The CONTRACTOR shall provide service unit of at least the same brand, model, features and functionalities or its equivalent in case of equipment breakdown at no additional cost to the DBM. The service unit shall be made available and operational within (4) working hours from the time the problem has been reported by the DBM for the equipment undergoing repair during the warranty period.

However, mandatory replacement of defective unit with a brand new unit of the same or better brand or model shall be made, if not repaired beyond one (1) month from the time the service unit was provided, at no additional cost to the DBM.

5.7 The CONTRACTOR shall resolve all issues encountered/unresolved under section 5.4 to 5.6 even after the warranty ends.

5.8 The CONTRACTOR shall provide Technology Transfer

Training	Schedule	No. of Participants	Duration
Basic administration and configuration of Anti-DDoS/ WAF Solution	<ol style="list-style-type: none"> 1. Within two (2) months from the receipt of NTP. 2. Within three (3) months from the receipt of NTP. 3. Within four (4) months from the receipt of NTP. 	At least three (3) participants per conduct	Minimum of three (3) days

The CONTRACTOR shall issue individual training certificates and training materials for each of the participants.

A Certificate of Acceptance shall be issued by the Director of Information and Communication Technology Systems Service (ICTSS).

5.9 The CONTRACTOR shall provide Documentation of Anti-DDoS/WAF Solution set-up/ diagram in both hard and soft copies including information on the licenses used in the deployment, system resource/overhead requirements of the software/IT equipment employed in the project as well as procedures for installation, uninstallation, configuration, integration, usage, backup and restoration within five (5) months from the receipt of NTP.

A Certificate of Acceptance shall be issued by the Director of Information and Communication Technology Systems Service (ICTSS).

VI. SERVICE LEVEL AGREEMENT

6.1 DBM shall maintain a Service Level Agreement (SLA) with the CONTRACTOR, with provisions for liquidated damages for their non-compliance.

Component	Description	Liquidated Damages
6.1.1 Delivery, Installation Configuration and Operationability	The CONTRACTOR shall deliver, install, configure and make operational the Anti-DDoS/WAF Solution and its software licenses within	One percent (1%) of the total contract price shall be imposed per day of delay.

	<p>sixty (60) calendar days from issuance of Notice to Proceed (NTP). (Sec. 5.3)</p>	
6.1.2 Technical Support	<p>The CONTRACTOR shall provide/render twenty-four hours a day, seven days a week (24x7) technical support service during warranty period, as specified in Section 7.9 of this TOR. Technical support can be delivered in a form of telephone call, electronic mail, and/or on-site support.</p> <p>The CONTRACTOR shall resolve every problem on software and hardware components within four (4) hours after it was reported during the warranty period. It shall refer to a condition wherein the reported problem is resolved by the CONTRACTOR to the satisfaction of the DBM. Problem and resolution shall be logged in the DBM Help Desk Facility.</p> <p>(Sec. 5.4)</p>	<p>1/10th of 1% of the total contract price shall be imposed for every hour of delay. Said penalty shall be deducted from the performance security bond of the bidder.</p>
6.1.3 Replacement of Parts	<p>The CONTRACTOR shall replace the defective parts/accessories of the same or better brand, model features, quality and functionalities if not repaired within the allowable resolution time of four (4) working hours during the warranty period at no additional cost to the DBM.</p> <p>(Sec. 5.5)</p>	<p>1/10th of 1% of the total contract price shall be imposed for every hour of delay. Said penalty shall be deducted from the performance security bond of the bidder.</p>
6.1.4 Service Unit	<p>The CONTRACTOR shall provide service unit of at least the same brand, model, features and functionalities</p>	<p>1/10th of 1% of the total contract price shall be imposed for every hour of delay. Said penalty</p>

	or its equivalent in case of equipment breakdown at no additional cost to the DBM. The service unit shall be made available and operational within (4) working hours from the time the problem has been reported by the DBM for the equipment undergoing repair during the warranty period. (Sec. 5.6)	shall be deducted from the performance security bond of the bidder.
6.1.5 Technology Transfer	The CONTRACTOR shall provide Technical Trainings (Sec. 5.8)	1/10 th of 1% of the total contract price shall be imposed per day of delay.
6.1.6 Documentation	The CONTRACTOR shall provide Documentation of Anti-DDoS/WAF Solution set-up/ diagram in both hard and soft copies including information on the licenses used in the deployment, system resource/overhead requirements of the software/IT equipment employed in the project as well as procedures for installation, uninstallation, configuration, integration, usage, backup and restoration within five (5) months from the receipt of NTP. (Sec. 5.9)	1/10 th of 1% of the total contract price shall be imposed per day of delay.

VII. WARRANTIES OF THE CONTRACTOR

- 7.1 The CONTRACTOR warrants that it shall conform strictly to the terms and conditions of this TOR.
- 7.2 The CONTRACTOR warrants, represents and undertakes reliability of the services and that their manpower complements are hardworking, qualified/reliable and dedicated to do the service required to the satisfaction of the DBM. It shall employ well-behaved and honest employees with ID displayed conspicuously while working within the compound. It shall not employ DBM employees to work in any category whatsoever.
- 7.3 The CONTRACTOR, in the performance of its services, shall secure, maintain at its own expense all registration, licenses or permits required by National or Local Laws

and shall comply with the rules, regulations and directives of Regulatory Authorities and Commissions. The CONTRACTOR undertakes to pay all fees or charges payable to any instrumentality of government or to any other duly constituted authority relating to the use or operation of the installation.

- 7.4 The CONTRACTOR's personnel shall take all necessary precautions for the safety of all persons and properties at or near their area of work and shall comply with all the standard and established safety regulations, rules and practices.
- 7.5 The CONTRACTOR shall coordinate with the authorized and/or designated DBM personnel in the performance of their jobs.
- 7.6 The CONTRACTOR shall be liable for loss, damage or injury due directly or indirectly through the fault or negligence of its personnel. It shall assume full responsibility thereof and the DBM shall be specifically released from any and all liabilities arising therefrom.
- 7.7 The CONTRACTOR shall neither assign, transfer, pledge, nor sub-contract any part or interest therein.
- 7.8 The CONTRACTOR shall identify the technical support personnel that will be given authority to access and manage the Anti-DDoS/WAF Solution. DBM shall be informed thru a formal notice on the change or replacement of technical personnel five (5) days prior the actual rendering of technical support services.
- 7.9 The CONTRACTOR shall provide a one (1) year comprehensive warranty which shall include technical support, provision of service unit and parts replacement for the hardware/appliance which shall be covered by special bank guarantee equivalent to 10% of the total contract price. The said amount shall be released after the lapse of the warranty period. Provided, however, that the goods supplied are free from patent and latent defect and all conditions imposed under the contract have been fully met.

The warranty and subscription shall commence on the day the DBM issues the Certificate of Acceptance.

VIII. CONFIDENTIALITY OF DATA

- 8.1 All project personnel of CONTRACTOR shall be required to sign a Non-Disclosure Agreement (NDA).
- 8.2 The DBM Enterprise Network System, its component, parts and all products, products samples and specifications, data, ideas, technology, and technical/non-technical materials, all or any which may be derived from any of the foregoing (all of which, individually and collectively, referred to as "Proprietary Information") are confidential and proprietary to DBM.
- 8.3 The CONTRACTOR agrees to hold the Proprietary Information in strict confidence. The CONTRACTOR furthermore agrees not to reproduce, translate or disclose the Proprietary Information to 3rd parties without prior written approval of the DBM.

IX. TERMS OF PAYMENT

9.1 The CONTRACTOR shall be paid upon completion of delivery, installation, configuration and operationability subject to the required Final Withholding VAT (Services) of five percent (5%) and Expanded Withholding Tax of two percent (2%).

9.2 Payment shall be made within a reasonable time from the submission of the documentary requirements such as, but not limited to, the following, based on existing accounting and auditing laws, rules and regulations:

9.2.1 Delivery Receipts

9.2.2 Sales Invoice/Billings

9.2.3 Certificate of Acceptance issued by ICTSS-Director for the following:

- Delivery, installation, configuration and operationability.
- Technology Transfer
- Documentation

9.2.4 Non-Disclosure Agreement

9.3 No advance payment shall be made as provided for in Section 88 of PD 1445

X. PRE-TERMINATION OF CONTRACT

10.1 The contract for the Anti Distributed Denial-of-Service/Web Application Firewall Solution may be pre-terminated by the DBM for any violation of the terms of the contract. In case of pre-termination, the CONTRACTOR shall be informed by the DBM thirty (30) days prior to such pre-termination.

10.2 In case of pre-termination, the CONTRACTOR shall be liable to an additional liquidated damages equivalent to one percent (1%) of the contract price as provided by the Government Accounting Manual (GAM) and forfeiture of the Performance Security.

10.3 The DBM shall have the right to blacklist the CONTRACTOR in case of pre-termination.

Section IV. General Conditions of Contract

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1. Definitions

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

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

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

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

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

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019.
 - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
 - (iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.
 - (iv) "coercive practices" means harrasing or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
 - (v) "obstructive practice" is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an

administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

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

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

2.2. Further the Funding Source, Borrower or Procuring Entity, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with any of the practices mentioned in GCC Clause 2.1(a).

3. Inspection and Audit by the Funding Source

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

4. Governing Law and Language

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

4.2. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract exchanged by the parties shall be written in English.

5. Notices

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

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

6. Scope of Contract

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

7. Subcontracting

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.
- 7.2. If subcontracting is allowed, the Supplier may identify its subcontractor during contract implementation. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract. In either case, subcontractors must submit the documentary requirements under **ITB** Clause 12 and comply with the eligibility criteria specified in the **BDS**. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Goods shall be disallowed.

8. Procuring Entity's Responsibilities

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

9. Prices

- 9.1. For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB in accordance with Section 61 of R.A. 9184 and its IRR or except as provided in this Clause.

- 9.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any change in price resulting from a Change Order issued in accordance with GCC Clause 29.

10. Payment

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

11. Advance Payment and Terms of Payment

- 11.1. Advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the Contract amount, unless otherwise directed by the President or in cases allowed under Annex "D" of RA 9184.
- 11.2. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.
- 11.3. For Goods supplied from abroad, unless otherwise indicated in the SCC, the terms of payment shall be as follows:
- (a) On Contract Signature: Fifteen Percent (15%) of the Contract Price shall be paid within sixty (60) days from signing of the Contract and upon submission of a claim and a bank guarantee for the equivalent

amount valid until the Goods are delivered and in the form provided in Section VIII. Bidding Forms.

- (b) On Delivery: Sixty-five percent (65%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents (i) through (vi) specified in the SCC provision on Delivery and Documents.
- (c) On Acceptance: The remaining twenty percent (20%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the Procuring Entity's authorized representative. In the event that no inspection or acceptance certificate is issued by the Procuring Entity's authorized representative within forty five (45) days of the date shown on the delivery receipt, the Supplier shall have the right to claim payment of the remaining twenty percent (20%) subject to the Procuring Entity's own verification of the reason(s) for the failure to issue documents (vii) and (viii) as described in the SCC provision on Delivery and Documents.

12. Taxes and Duties

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

13. Performance Security

- 13.1. Within ten (10) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties, the successful Bidder shall furnish the performance security in any the forms prescribed in the ITB Clause 33.2.
- 13.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.
- 13.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.
- 13.4. The performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following conditions:
 - (a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;
 - (b) The Supplier has no pending claims for labor and materials filed against it; and
 - (c) Other terms specified in the SCC.

- 13.5. In case of a reduction of the contract value, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) and that the aggregate of such reductions is not more than fifty percent (50%) of the original performance security.

14. Use of Contract Documents and Information

- 14.1. The Supplier shall not, except for purposes of performing the obligations in this Contract, without the Procuring Entity's prior written consent, disclose this Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Entity. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.
- 14.2. Any document, other than this Contract itself, enumerated in GCC Clause 14.1 shall remain the property of the Procuring Entity and shall be returned (all copies) to the Procuring Entity on completion of the Supplier's performance under this Contract if so required by the Procuring Entity.

15. Standards

The Goods provided under this Contract shall conform to the standards mentioned in Section VII. Technical Specifications; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

16. Inspection and Tests

- 16.1. The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. The SCC Section VII. Technical Specifications shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 16.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity. The Supplier shall provide the Procuring Entity with results of such inspections and tests.
- 16.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

- 16.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Clause 5.
- 16.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

17. Warranty

- 17.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the Procuring Entity provides otherwise.
- 17.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 17.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier for a minimum period specified in the SCC. The obligation for the warranty shall be covered by, at the Supplier's option, either retention money in an amount equivalent to at least one percent (1%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) of the total Contract Price or other such amount if so specified in the SCC. The said amounts shall only be released after the lapse of the warranty period specified in the SCC; provided, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 17.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 17.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in GCC Clause 17.4, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract and under the applicable law.

18. Delays in the Supplier's Performance

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

19. Liquidated Damages

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

20. Settlement of Disputes

- 20.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 20.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.
- 20.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be

settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract.

- 20.4. In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."
- 20.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

21. Liability of the Supplier

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

22. Force Majeure

- 22.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform its obligations under the Contract is the result of a *force majeure*.
- 22.2. For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or *force majeure* shall be interpreted to mean an event which the Supplier could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Supplier. Such events may include, but not limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 22.3. If a *force majeure* situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the *force majeure*.

23. Termination for Default

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

24. Termination for Insolvency

The Procuring Entity shall terminate this Contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Supplier.

25. Termination for Convenience

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

- 25.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:
- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
 - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.
- 25.3. If the Supplier suffers loss in its initial performance of the terminated contract, such as purchase of raw materials for goods specially manufactured for the Procuring Entity which cannot be sold in open market, it shall be allowed to recover partially from this Contract, on a *quantum meruit* basis. Before recovery may be made, the fact of loss must be established under oath by the Supplier to the satisfaction of the Procuring Entity before recovery may be made.

26. Termination for Unlawful Acts

- 26.1. The Procuring Entity may terminate this Contract in case it is determined *prima facie* that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:
- (a) Corrupt, fraudulent, and coercive practices as defined in ITB Clause 3.1(a);
 - (b) Drawing up or using forged documents;
 - (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
 - (d) Any other act analogous to the foregoing.

27. Procedures for Termination of Contracts

- 27.1. The following provisions shall govern the procedures for termination of this Contract:
- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;

- (b) Upon recommendation by the Implementing Unit, the HoPE shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
- (i) that this Contract is being terminated for any of the ground(s) afore-mentioned, and a statement of the acts that constitute the ground(s) constituting the same;
 - (ii) the extent of termination, whether in whole or in part;
 - (iii) an instruction to the Supplier to show cause as to why this Contract should not be terminated; and
 - (iv) special instructions of the Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to the HoPE a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the HoPE shall issue an order terminating this Contract;
- (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper described in item (d) above withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the HoPE shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The HoPE may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the HoPE; and
- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

28. Assignment of Rights

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

29. Contract Amendment

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

30. Application

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

Section V. Special Conditions of Contract

Special Conditions of Contract

GCC Clause	
1.1(g)	The Procuring Entity is the Department of Budget and Management (DBM).
1.1(i)	The Supplier is
1.1(j)	<p>The Funding Source is:</p> <p>The Government of the Philippines (GOP) through the authorized appropriations under the FY 2018 General Appropriations Act in the amount of Sixteen Million Seven Hundred Thirty Two Thousand Pesos (P16,732,000.00).</p>
1.1(k)	<p>The Project Site is:</p> <p>Department of Budget and Management Information and Communications Technology Systems Service 3rd Floor, Boncodin Hall, General Solano St. San Miguel, Manila.</p>
2.1	No further instructions.
5.1	<p>The Procuring Entity's address for Notices is:</p> <p style="padding-left: 40px;">Department of Budget and Management Information and Communications Technology Systems Service Boncodin Hall General Solano St., San Miguel, Manila Tel No. (02)657-3300 loc. 2360</p> <p style="padding-left: 40px;">Contact Person: Director Andrea Celenc M. Magtalas, ICTSS</p> <p>The Supplier's address for Notices is:</p>
6.2	<p>Delivery of all services shall be made by the Service Provider in accordance with the terms specified in Section VI. Schedule of Requirements.</p> <p>The Contract price for the services shall include the prices charged by the Supplier for incidental services and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services. The Supplier warrants that all of the benefits and terms granted herein are at least as favorable as the benefits and terms granted by it to any previous buyer of the Goods described in this Agreement.</p> <p>The Supplier shall indemnify the Procuring Entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from the Use of the Goods or any part thereof.</p>
9.1	Should the Supplier, during contract implementation, enter into a subsequent contract with any other government agency, which

	<p>provides for benefits or terms more favorable than those contained in this Contract, such as, a lower price for the same scope of services, then this Contract shall be deemed to be modified to provide the Procuring Entity with these more favorable benefits and terms.</p> <p>The Supplier shall notify the Procuring Entity promptly of the existence of such more favorable benefits and terms. If requested in writing by the Procuring Entity, the Supplier shall implement such more favorable benefits and terms, and the same shall be considered automatically incorporated in this Agreement.</p>
10.3	See item IX. Terms of Payment of Annex A – Detailed Technical Specifications.
10.4	Not applicable.
10.5	Payment using LC is not allowed.
11.3	Maintain the GCC Clause.
13.4(c)	No further instructions.
15	No further instructions
16.1	No further instructions.
17.3	No further instructions.
17.4	See item VII. Warranties of the Contractor of Annex A – Detailed Technical Specifications.
19	See item VI. Service Level Agreement of Annex A – Detailed Technical Specifications.
21.1	The Supplier shall be responsible and liable for cost of repair due to damages caused by its own staff while implementing the project.



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

BIDS AND AWARDS COMMITTEE

NOTICE OF AWARD

November 29, 2018

MR. GERRY A. BAQUIRAN
Account Manager
Trends and Technologies, Inc.
6F Trafalgar Plaza
105 HV Dela Costa St.
Salcedo Village, Makati City

Dear **Mr. Baquiran**:

We are pleased to inform you that the contract for the Project, "Anti Distributed Denial-of-Service/Web Application Firewall Solution," is hereby awarded to Trends and Technologies, Inc. in the amount of P15,778,000.00.

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

Very truly yours,

S. C. S.
BENJAMIN E. DIOKNO
Secretary *fls*



Gerry Baquiran
GERRY BAQUIRAN
DEC 13, 2018



MAA General Assurance Phils., Inc.
 10th Floor, Pearlbank Centre, 146 Valero Street, Salcedo Village, Makati City 1227
 Tel. Nos. 751-3759, 751-3760 Fax No. 893-2230
 TIN: 000-801-332-000

PREMIUM	P	26,033.70
DST		3,254.21
VAT		3,124.04
LGT		28.64
MISC		1,500.00
TOTAL:	P	33,940.59

PERFORMANCE BOND
 (For Government Project)

MAAGAP No.: 2018-12-11990

G(13) 12300
 ML-12-18-ML-000611

KNOW ALL MEN BY THIS PRESENTS:

That we, **TRENDS & TECHNOLOGIES, INC.** of 6TH FLOOR, TRAFALGAR PLAZA, 105 H.V. DELA COSTA ST. SALCEDO VILLAGE MAKATI CITY as Principal, and **MAA GENERAL ASSURANCE PHILS., INC.**, a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, as Surety, are held and firmly bound unto **DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)** as Obligee, in the sum of **Pesos: FOUR MILLION SEVEN HUNDRED THIRTY THREE THOUSAND FOUR HUNDRED (Php4,733,400.00) ONLY**, Philippine Currency, **CALLABLE ON DEMAND** by the Obligee for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

WHEREAS, the Principal has been declared to fully and faithfully guarantee principals performance to the connection with the **"Anti Distributed Denial-of-Service/Web Application Firewall Solution, as mentioned in the Notice of Award dated November 29, 2018**, copy of which is hereto attached for reference

WHEREAS, said OBLIGEE requires Principal upon receipt of the Notice of Award to post Performance Security to guarantee the faithful performance by the winning bidder of its obligations under the Contract and in accordance with the provision of R.A. No. 9184 and its implementing rules and regulations;

NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, condition and agreements stipulated in the contract with the Obligee, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, we have set our hands and signed our names on 14th day of December, 2018 in the City of Makati, Philippines.

TRENDS & TECHNOLOGIES, INC.
 TIN: 002-035-961-000
 (Principal)

By: 
JOSE DANIEL L. BALAJADIA
 Corporate Secretary

MAA GENERAL ASSURANCE PHILS., INC.
 TIN: 000-801-332-000
 (Surety)

By: 
ANDRES N. VILLEGAS
 Bonds Manager

 Witness to Principal

ATTEST:

 Witness to Surety

ACKNOWLEDGEMENT

MAAGAP No.: 2018-12-11990

G(13) 12300
ML-12-18-ML-000611

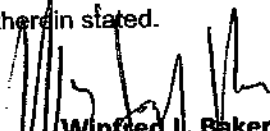
REPUBLIC OF THE PHILIPPINES
City of Makati } S.S

BEFORE ME, the undersigned authority, in and for the Makati City, Philippines, this **14th** day of **December, 2018** personally appeared:

Name	GOVERNMENT ISSUED ID	ISSUED	
		AT	ON
JOSE DANIEL L. BALAJADIA	Passport no. EC4244589	DFA Manila	0005-05-23

The latter as **ANDRES N. VILLEGAS** Exhibiting TIN No. **104-730-616-000** with Corporation Community Tax Certificate No. **00193866** issued at Makati City Philippines, known to me and to me known act and deed and the free and voluntary act and deed of the Company they represent, for the to be the persons who executed the foregoing document and acknowledged the same to be their free and voluntary uses and purposes therein stated.

WITNESS my hand and notarial seal the date place first herein above written.


Winfred L. Baker
 Notary Public For Makati City
 Appointment No. M-30 (2017-2018)
 Until December 31, 2018
 10th Floor Pearl Bank Centre
 146 Valero St., Makati City
 ROLL No. 29302
 PTR No. 5521569, 1/4/2018, Quezon City
 IBP No. AR 000649, 1/4/2018, Quezon City

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Book No. XLII
Series of 2018

REPUBLIC OF THE PHILIPPINES
City of Makati } S.S

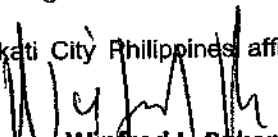
after having been duly sworn to, depose and say that **MAA GENERAL ASSURANCE PHILS., INC.** is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines and duly authorized to execute and issue all surety bonds for all purposes within the Philippines and that it is actually worth the amount specified in the foregoing undertaking to wit:

Pesos: FOUR MILLION SEVEN HUNDRED THIRTY THREE THOUSAND FOUR HUNDRED (Php4,733,400.00) ONLY, Philippine Currency, over and above all just debts and obligations and property exempt from execution.

MAA General Assurance Phil., Inc.
TIN: 000-801-332-000

By: **ANDRES N. VILLEGAS**
Bonds Manager

SUBSCRIBED AND SWORN to before me this: **14th** day of **December, 2018** at Makati City Philippines, affiant exhibiting to me his Government Issued ID and that of the Corporation above described.


Winfred L. Baker
 Notary Public For Makati City



MAA General Assurance Phils., Inc.
10th Floor, Pearibank Centre, 146 Valero Street, Salcedo Village, Makati City 1227
Tel. Nos. 751-3759, 751-3760 Fax No. 893-2230
TIN: 000-801-332-000

INDEMNITY AGREEMENT

MAAGAP No.: 2018-12-11990

G(13) 12300
ML-12-18-ML-000611

KNOW ALL MEN BY THESE PRESENTS:

We the undersigned, **TRENDS & TECHNOLOGIES, INC.** of **6TH FLOOR, TRAFALGAR PLAZA, 105 H.V. DELA COSTA ST. SALCEDO VILLAGE MAKATI CITY** represented by **JOSE DANIEL L. BALAJADIA - Corporate Secretary** in His/Her Official, Jointly and severally, bind ourselves unto the **MAA General Assurance Phils., Inc.** a corporation duly organized and existing under the laws of the Republic of the Philippines, with head office at the City of Makati, Philippines, and hereinafter referred to as the **CORPORATION**, for and in consideration of its having become **SURETY**, for our accommodation, in behalf of **TRENDS & TECHNOLOGIES, INC.** a **PERFORMANCE BOND (For Government Bid)** in the amount of **Pesos: FOUR MILLION SEVEN HUNDRED THIRTY THREE THOUSAND FOUR HUNDRED (Php4,733,400.00) ONLY**, Philippine Currency, in favor of **DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)** as attached hereto and made part hereof.

For and in consideration of the execution by the **CORPORATION** of the said Bond and any and all renewals, extensions, modifications, and /or substitution thereof, the undersigned jointly and severally binds itself in favor of the said **CORPORATION** to the following obligations:

PAYMENT OF PREMIUM: - To pay the **CORPORATION** the sum of **Pesos: TWENTY SIX THOUSAND THIRTY THREE AND SEVENTY CENTS (Php26,033.70) ONLY**, Philippine Currency in advance as premium only, however, the same is subject to Documentary Stamp Tax (DST), Expanded Value Added Tax (E-Vat), Local Government Tax and other charges for each period of **304** calendar days or fraction thereof, to be computed from the date until said Bond or any all renewals, extensions, modifications or substitutions thereof be cancelled in full by the person or entity in whose favor the said Bond was executed or by virtue of a final judgment of a court of competent jurisdiction.

INDEMNIFICATION:-To indemnify the **CORPORATION**, and keep it indemnified for, and hold and save it harmless from all damages, payments, advances, losses, costs, stamps, taxes, penalties, charges, attorney's fees, and expenses of having become surety upon the above-mentioned Bond, its renewals, extensions, modifications or substitutions, and without limiting the generality of the foregoing to pay reimburse and make good to the **CORPORATION**, its successors and assigns all sums of money which it shall pay or cause to be paid by virtue of said Bond, its renewals, extensions, modifications, substitutions. In no case shall the indemnity for attorney's fees be less than 25% of the amount claimed by the **CORPORATION**, regardless of whether the **CORPORATION'S** claim is satisfied through court action or settled out of court.

If the bond mentioned above is a bail bond or criminal appeal Bond, failure of the **CORPORATION** to send to the undersigned, notice of arraignment, hearing, trial, promulgation of judgment, reading of sentence or any kind of notice whatsoever shall not release or exempt the undersigned to make such indemnification/reimbursement to the **CORPORATION**. The undersigned assumed the obligation of verifying and knowing in advance from the court the place, date and time of said arraignment, hearing, etc., and see to it that the accused is present thereat.

The undersigned further covenanted and agreed that:

1. **MATURITY OF OBLIGATION TO INDEMNIFY THE CORPORATION:**-Indemnities due from us to the **CORPORATION** under this Agreement, as above set forth shall be paid by us to the **CORPORATION** upon receipt by the **CORPORATION** of any demand or claim under the above-mentioned Bond, its renewals, extensions, modifications or substitutions whether the sums demanded or claimed or part thereof have been actually paid by the **CORPORATION** or not. We authorize the **CORPORATION** to grant extensions to us, or accept in any case and at its entire discretion payment in full or in part from us of the indemnities due to the **CORPORATION** but no extension granted to any of us, or novation, compensations or remission made with any of us, shall extinguish our obligation to indemnify the **CORPORATION**, so long as all indemnities due to the **CORPORATION** shall not have been fully paid. It shall not be necessary for the **CORPORATION** to bring suit against the principal but our liability under this Agreement shall be a primary one, the same as that of the principal and shall be due and demandable upon receipt by the **CORPORATION**, as aforesaid, of any claim or demand arising from the bond, its renewals, extensions modification or substitutions.

2. **INTEREST IN CASE OF DELAY:**- In case of delay in the payment of any obligation by the undersigned, said obligation shall earn interest computed at the maximum lawful rate from the date of the delay which interest if not paid, will be liquidated and accumulated to the capital quarterly, and shall earn interest at the same rate as the capital until paid without prejudice to the right of the Corporation to demand full payment of all obligation of the undersigned.

Furthermore, undersigned undertakes to pay the **CORPORATION** thirty (30%) percent over and above all amounts due and demandable in the preceding paragraphs, as liquidated damages.

3. **INCONTESTABILITY OF PAYMENT MADE BY THE CORPORATION:**- Any payment or disbursement made by the **CORPORATION** on account of the above mentioned Bond, its renewals, extensions, modifications, substitutions, either in the belief that the **CORPORATION** was obligated to make such payment or in the belief that said payment was necessary in order to avoid greater losses or obligation for which the **CORPORATION** is or might be liable by virtue of the terms of the above - mentioned Bond, its renewals, extensions, modifications or substitutions shall be final and will not be disputed and is indisputable by the undersigned, who binds itself to indemnify the **CORPORATION** for any such payment as above stated.

6. RENEWALS, ALTERATIONS AND SUBSTITUTIONS:- The undersigned hereby empowers and authorizes the CORPORATION to grant or consent to the granting of, any and all extensions, continuations and increases, modifications, changes, alterations and/or renewals of the original Bond herein referred to, and to execute or consent the execution of any and all substitution for said Bond with the same or different conditions and parties, and the undersigned hereby holds itself liable under the same terms and conditions as herein provided without the necessity of executing another indemnity agreement to the CORPORATION for the original bond hereinabove mentioned or for any all extension, continuations, increases, modifications, changes, alterations, renewals, or substitutions thereof, until the full amount including principal, interest, premium, cost and other expenses due to the CORPORATION there under is fully paid up. The undersigned hereby also waives such extensions, continuations, increases, modifications, changes or alterations, renewals, or substitutions.

7. CANCELLATION OF THE BOND BY THE CORPORATION:-The CORPORATION may at any time ask the OBLIGEE to cancel the above-mentioned Bond, its renewals, extensions, modifications or substitutions subject to any liability which might have accrued prior to the date of cancellation, refunding the proportionate amount of the premium unearned on the date of cancellation.


8. SEVERABILITY OF PROVISIONS:- It is hereby agreed that should any provision/s of this agreement be declared by competent public authority to be invalid or otherwise unenforceable all remaining provisions herein contained shall remain in full force and effect.

9. NOTIFICATION:- The undersigned hereby acknowledge due notice that the CORPORATION has accepted this Undertaking executed by them in favor of the CORPORATION.

10. To secure the provisions of this indemnity agreement, the undersigned shall upon demand of the CORPORATION, furnish collaterals/securities in favor of the CORPORATION. The determination of the required value, nature, and form of the collaterals/securities shall be upon mutual agreement between the CORPORATION and the undersigned, with final approval of the CORPORATION. For this purpose the undersigned binds itself to execute the necessary documents and pay in advance the expenses of the preparation and proper registration thereof.

DONE at City of Makati Philippines, this 14th day of **December, 2018**

TRENDS & TECHNOLOGIES, INC.

By: 
JOSE DANIEL L. BALAJADIA -
Corporate Secretary
 In His/Her Official Capacity

SIGNED IN THE PRESENCE OF:

REPUBLIC OF THE PHILIPPINES
 City of Makati

} S.S

In the City of Makati, Philippines this 14th day of **December, 2018**, personally appeared before me:

Name	GOVERNMENT ISSUED ID	ISSUED	
		AT	ON
JOSE DANIEL L. BALAJADIA	Passport no. EC4244589	DFA Manila	0005-05-23

to me known to be the same persons who signed and executed the foregoing instrument and acknowledge before me that the same is their own voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at the place and on the date first above written.



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

BIDS AND AWARDS COMMITTEE

NOTICE TO PROCEED

MR. GERRY A. BAQUIRAN

Account Manager

Trends and Technologies, Inc.

6th Floor, Trafalgar Plaza

105 H.V. Dela Costa Street

Salcedo Village, Makati City

Dear **Mr. Baquiran:**

This is to inform your company that performance of the obligations specified in the attached Contract for the Project, "Anti Distributed Denial-of-Service/Web Application Firewall Solution," shall commence upon receipt of this Notice to Proceed.

Very truly yours,

BENJAMIN E. DIOKNO

Secretary



I acknowledge receipt and acceptance of this Notice on: 1/20/09

Name of Consultant and/or Representative: ARISTON MURRAY

Authorized Signature: *[Signature]*