



PHILGUARANTEE

Philippine Guarantee Corporation

PROCUREMENT OF LICENSE SUBSCRIPTION TO ADOBE CREATIVE CLOUD SOFTWARES FOR TEAMS

GENERAL TERMS AND CONDITIONS

I. BACKGROUND

The Philippine Guarantee Corporation (PHILGUARANTEE) is the principal agency for state guarantee finance of the Philippines, providing accessible, reliable and efficient guarantee systems to enable credit for stockholders in trade and investments, infrastructure, housing, agriculture, MSMEs and other priority sectors of the Government.

II. OBJECTIVE

The employees and personnel of the PHILGUARANTEE must have the necessary ICT resources such as but not limited to servers, personal computers, laptops, security software, etc., in order to effectively and efficiently perform its mandated tasks and responsibilities.

III. BENEFITS

Taking into consideration the requirements to meet the objective, PHILGUARANTEE shall procure license subscriptions to Adobe Products for the use of multimedia software applications to enable the authorized PHILGUARANTEE personnel the capability to produce various compelling corporate projects through the substantial access to latest industry-standard design features, assets and services, among others.

IV. TABLE OF ACRONYMS, TERMS AND ABBREVIATIONS

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| PE | Procuring Entity, or the Philippine Guarantee Corporation (PHILGUARANTEE) |
| Project | Refer to the subject of this document or the procurement activity being undertaken by the PE. |
| ABC | Approved Budget for the Contract |
| BAC | Bids and Awards Committee |
| Goods | Refer to all items, supplies, materials and general support services, except Consulting Services and Infrastructure Projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal |

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| | property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the Procuring Entity for such services. The term “related” or “analogous services” shall include, but is not limited to, lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the Procuring Entity. (2016 revised IRR, Section 5[r]). Refer to <i>Annex A-Technical Specifications and Requirements</i> |
| PhilGEPS | Philippine Government Electronic Procurement System |
| Supplier | Refers to a citizen, or any corporate body or commercial company duly organized and registered under the laws where it is established, habitually established in business and engaged in the manufacture or sale of the merchandise or performance of the general services covered by his bid. (Item 3.8 of GPPB Resolution No. 13-2019, dated 23 May 2019). Supplier as used in this document may likewise refer to an authorized distributor, seller, manufacturer, contractor, consultant and the winning Bidder. |
| NTP | Notice to Proceed |

V. SCOPE OF WORK

- a. The Supplier must provide the Goods enumerated in *Annex A-Technical Specifications and Requirements*.
- b. The validity of the Goods and support services shall cover the period of twelve (12) months starting from the issuance of Certificate of Acceptance.

VI. TERMS OF DELIVERY

- a. Supply and delivery of the Goods and implementation of the services by the Supplier must be made within 30 calendar days upon receipt of the NTP, at the Information Technology Department (ITD), 23rd Floor BPI-Philam Life Building, 6811 Ayala Avenue, Makati City.
- b. The above specified period of delivery is subject to change without prior notice and activities may be re-scheduled in any of the following or similar circumstances:
 1. Natural disasters or calamities
 2. National security emergencies
 3. Implementation of work suspensions or community quarantine/lockdown due to worldwide/nationwide health emergencies (e.g. plague, pandemic, epidemic, etc.)
 4. *Force majeure* or any unforeseen circumstances that prevent the Supplier from fulfilling the Contract.

In any occurrence of the circumstances noted above wherein the scheduled activity

cannot be completed or performed, the activity will be rescheduled and completed or performed immediately after the circumstances mentioned above. In addition, the Supplier will still be paid as scheduled based on the payment terms.

- c. If the Supplier will be unable to deliver the Goods by the delivery date(s) stipulated in the Purchase Order, the Supplier shall:
 1. Immediately consult with PE to determine the most expeditious means for delivery and;
 2. Use an expedited means of delivery, at the Supplier's cost (unless the delay is due to *Force Majeure*), if reasonably so requested by PE.
- d. Late delivery shall be subject to penalty equivalent to 1/10 of 1% of the total cost of undelivered items.
- e. The Goods shall be delivered according to the requirements specified herein.

VII. SCHEDULE OF ENGAGEMENT

| ACTIVITY | DESCRIPTION | TIMELINE |
|----------|---|--|
| (1) | 1. Supply and delivery of Goods (<i>Refer to Annex A-Technical Specifications and Requirements</i>) together with Certificate of License Subscription 2. Installation and Activation 3. Issuance of Certificate of Acceptance | Within thirty (30) calendar days upon receipt of the NTP |
| (2) | Submission of complete documentary requirements for processing of payment: 1. Delivery Receipt 2. Billing statement or Sales invoice | |

VIII. TERMS OF PAYMENT

- a. Payment shall be made 30 days after complete delivery of the items and services, and on a one-time basis subject to submission of Documentary Requirements by the Supplier.
- b. All prices shall be VAT inclusive, considered as fixed price, and therefore not subject to price escalation during contract implementation.
- c. All prices shall be denominated and payable in Philippine currency pursuant to the provisions required in Section 61.4 of R.A. 9184 and its IRR.
- d. Payment shall be subject to the "Warranty" provisions in the form of retention money in an amount equivalent to at least one percent (1%) of the Contract Price required in Section 62.1 of R.A. 9184 and its IRR.

IX. APPROVED BUDGET FOR THE CONTRACT

The ABC is **One Hundred Thirty Seven Thousand and Ninety Two Pesos Only (Php 137,092.00)**, inclusive of all applicable taxes, chargeable against the Corporate Operating Budget for CY 2023.

X. RESPONSIBILITIES OF THE END-USER

The End-User shall:

- a. Grant the Supplier's authorized representative access to its premises, equipment and facilities to perform its obligations, provided such representative will be accompanied by the duly assigned End-User personnel;
- b. Monitor progress and status of the Project;
- c. Act as custodian of submitted project documents;
- d. Provide Project requirements needed on-site (e.g. Workspace, LAN connection, logistics, coordination, approvals);
- e. Issue Certificate of Acceptance; and,
- f. Process the Project payment.

XI. INSPECTION

- a. The PE, through the End-User representative, shall have reasonable time after delivery of the Goods to inspect them and to reject and refuse issuance of Certificate of Acceptance of Goods not conforming to the Specifications and Requirements enumerated in Annex A.
- b. Inspection of the Goods by the Supplier prior to delivery to the PE does not relieve the Supplier from any of its contractual obligations.
- c. The PE shall have the right to test the Goods to assure their conformity to the specifications.
- d. After conducting inspection and testing, the Supplier shall, within 3 calendar days from notice, replace all defective/erroneous/expired licenses at no cost to the PE.

XII. INTELLECTUAL PROPERTY RIGHTS

The Supplier warrants that the use or supply to the PE of the Goods does not infringe any patent, design, trade-name or trade-mark. In addition, the Supplier shall, indemnify, defend and hold the PE harmless from any actions or claims brought against the PE pertaining to the alleged infringement of a patent, design, trade-name or trade-mark arising in connection with the licenses sold under the Purchase Order.

XIII. NON-DISCLOSURE AGREEMENT

The Supplier shall protect Confidential Information about the PE, and to use it only for purposes of complying with its tasks and obligations under the procurement activity/Contract/Purchase Order. It shall not disclose any Confidential Information about the PE and its project or procurement to a third party without the consent of the PE.

"Confidential Information" refers to information concerning the affairs of the PE which are not available to the public which, if disclosed, may compromise the security of the System. The Supplier shall not disclose any Confidential Information acquired during its engagement with the PE even after the expiration or termination of the Contract.

XIV. CONTRACT TERMINATION

Both parties have the option to terminate the contract acceptable to both parties based on the Philippine Government Procurement Reform Act and its Implementing Rules and Regulations, GPPB Guidelines or its issuances, and other Philippine laws as applicable.

Pursuant to Annex I of the 2016 revised Implementing Rules and Regulations, as of 15

July 2022, of the Republic Act No. 9184, the PE reserves the right to terminate the Project on the following grounds.

a. Termination by Default

- i. Pursuant to Section 68 of the 2016 Revised IRR, The PE may terminate the contract when outside of force majeure, the Supplier fails to deliver or perform any or all of the contract deliverables (*Refer to Annex A-Technical Specifications and Requirements*) within the period(s) specified in the contract, or within any extension thereof granted by The PE 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;
- ii. Pursuant to Section 68 of the 2016 Revised IRR, The PE may terminate the contract when the Supplier, as a result of the *force majeure*, is unable to deliver or perform any or all of the contract deliverables, 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 notice from The PE stating that the circumstances of the force majeure is deemed to have ceased; or
- iii. The PE shall terminate the contract when the Supplier fails to perform any other obligation under the Contract.

b. Termination of Convenience

The PE may terminate the 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.

c. Termination for Insolvency

The PE shall terminate the 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 PE and/or the Supplier.

d. Termination for Unlawful Acts

In case it is determined prima facie that the Supplier engaged, before or during the implementation of the contract, in unlawful deeds and behaviors relative to contract acquisition and implementation.

XV. INSTRUCTIONS/REQUIREMENTS TO BIDDERS

- a. Must be at least five (5) years authorized reseller of Adobe licenses.
- b. Must be an Adobe Platinum Partner and should provide partnership certificate.
- c. Must have the capacity and ability to provide maintenance services and technical support.
- d. All quotations shall be written with the Supplier Company's letterhead. .

XVI. **WARRANTY**

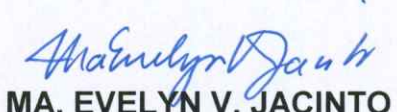
- a. In order to assure that manufacturing defects, cancellation, or deactivation shall be corrected, a warranty shall be required from the Supplier as provided under Section 62.1 of the 2016 revised IRR of RA No. 9184.
- b. The PE shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, repair or replace the defective or deactivated license and/or related parts thereof without cost to the PE, pursuant to the Generic Procurement Manual.

Prepared By:



ERIC CONRADO B. LUMAGUE
IT Officer II
IT Support Services Division

Reviewed by:



MA. EVELYN V. JACINTO
IT Officer III
IT Support Services Division

Approved by:



LLOYD A. SIOSON
Vice President
Information Technology Department

Conforme:

Printed name and Signature of Supplier
Date: