

**CONTRACT AGREEMENT FORM
FOR THE LEASE PURCHASE OF REMOTE DESKTOP SYSTEM (RDS)
COMPONENTS**

KNOW ALL MEN BY THESE PRESENTS:

This Contract Agreement for the Lease Purchase of Remote Desktop System (RDS) Components, (hereinafter, the AGREEMENT), entered into in Pasay City, Philippines, on ~~MAR 03 2014~~, 2013 between the:

The **DEPARTMENT OF FOREIGN AFFAIRS**, (hereinafter, the **PROCURING ENTITY**), with principal office address at 2330 Roxas Blvd., Pasay City, Metro Manila, represented by its Undersecretary for Administration and Head of the Procuring Entity (HOPE) Honorable **RAFAEL E. SEGUIS**,

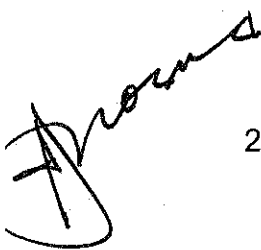
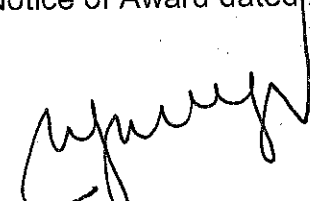

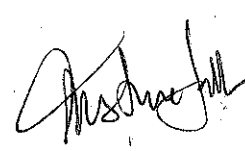
and

AMERICAN TECHNOLOGIES INC. (hereinafter, the **CONTRACTOR**), is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 5 Ideal, Addition Hills, Mandaluyong City, represented by **MELINDA S. MEDALLA**, who is duly authorized to enter into this Agreement pursuant to the Secretary's Certificate dated 17 December 2013, a copy of which is attached as ANNEX A and made an integral part of this Agreement.

WITNESSETH:

WHEREAS the **PROCURING ENTITY** invited bids for the Lease Purchase of Remote Desktop System (RDS) Components, and has accepted a bid by the **CONTRACTOR** for the supply of said goods and services in the sum of Five Million Eight Hundred Ninety-Nine Thousand Nine Hundred Eighty-Nine Pesos only (PHP 5,899,989.00) (hereinafter called the **CONTRACT PRICE**), inclusive of all taxes and other lawful charges.

NOW, THEREFORE, for and in consideration of the foregoing premises, the **PARTIES** agree as follows:

- 
1. The definitions found in the General Conditions of Contract (GCC) and Special Conditions of Contract contained in the Philippine Bidding Documents for Procurement of Goods issued by the Government Procurement Policy Board (GPPB) are deemed incorporated in this AGREEMENT.
 2. The following documents are attached and made integral parts of this AGREEMENT:
 - 2.1 Bid Form and Price Schedule submitted by the Supplier (ANNEX B)
 - 2.2 Schedule of Requirements (ANNEX C)
 - 2.3 Technical Specifications (ANNEX D)
 - 2.4 General Conditions of Contract (ANNEX E)
 - 2.5 Special Conditions of Contract (ANNEX F)
 - 2.6 Supplemental Bid Bulletin No. 1 dated 06 December 2013 (ANNEX G)
 - 2.7 Notice of Award dated 27 December 2013. (ANNEX H)
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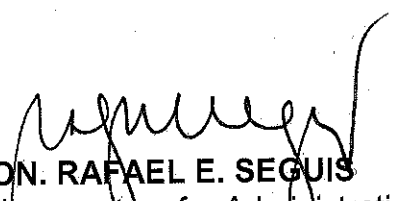
3. The CONTRACTOR shall deliver the goods to the address specified in Section VI. Schedule of Requirements within one hundred twenty (120) calendar days from receipt of the Notice to Proceed. The CONTRACTOR guarantees the quality, genuineness and availability of all the materials and equipment to be supplied and delivered. The CONTRACTOR shall make good at its own expense and account, any defect or defects that may be discovered by the PROCURING ENTITY.
4. For and in consideration of the delivery of the goods and services, the PROCURING ENTITY shall pay the CONTRACTOR the CONTRACT PRICE. The terms of payment shall be in accordance with the provisions of Sections 10 and 11 of the GCC, which is attached and made an integral part of this Agreement (ANNEX E and ANNEX F).

IN WITNESS WHEREOF, the PARTIES through their authorized representatives hereto have SIGNED this AGREEMENT on _____, in Pasay City, Metro Manila.

For the Procuring Entity:

DEPARTMENT OF FOREIGN AFFAIRS

By Authority of the Secretary of Foreign Affairs:

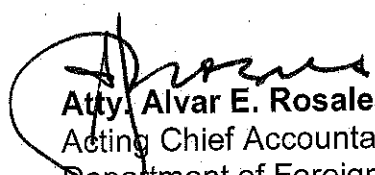

HON. RAFAEL E. SEQUIS
Undersecretary for Administration
and Head of the Procuring Entity *al*

For the Contractor

AMERICAN TECHNOLOGIES INC.

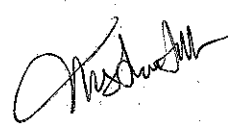

MELINDA S. MEDALLA
Authorized Representative


WITNESSES


Atty. Alvar E. Rosales
Acting Chief Accountant
Department of Foreign Affairs
AV


JAMES CHRISTOPHER M. SERRANO
American Technologies Inc.





ACKNOWLEDGMENT

Republic of the Philippines)
Pasay City) s.s.

BEFORE ME, a NOTARY PUBLIC for and in the City of Pasay, Philippines, on MAR 03 2014 personally appeared HONORABLE RAFAEL E. SEGUIS, Undersecretary for Administration of the Department of Foreign Affairs and MS. MELINDA S. MEDALLA, Authorized Representative of American Technologies Inc., known to me to be the same persons who executed the foregoing Agreement for the Lease Purchase of Remote Desktop System (RDS) Components, which instrument consists of _____ pages including the page on which this acknowledgement is written and the Annexes attached thereto, all pages of which have been signed by said PARTIES and their witnesses, and who acknowledged to me that the same is their free and voluntary act and deed and of the entities they represent.

The Philippine Passport / Philippine Government-Issued ID of the Parties were exhibited to me, the same bearing:

NAME	ID No.	PLACE OF ISSUE	DATE OF ISSUE
RAFAEL E. SEGUIS	Passport #00065751	Manila	5/11/2010
MELINDA S. MEDALLA	SOCIAL SECURITY SYSTEM # 39-4963530-3	QUEZON CITY	2011

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day, year and in the place above written.

Doc. No. 77
Page No. 8
Book No. 298
Series of 2014

[Signature]
NOTARY PUBLIC
UNTIL DECEMBER 31 2014
PTR NO. 2413105 / 2014 MLA
IBP NO. 943303 / 2014 MLA
ROLL NO. 24653 / TIN NO. 144-512-000
MCLE IN - 0015521
COMMISSION NO. 2013-023

[Signature]
[Signature]

[Signature]
[Signature]

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COMPONENTS**

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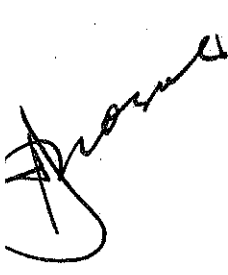
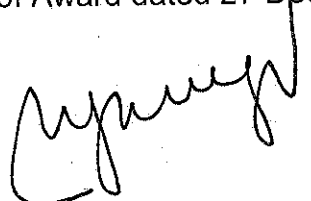

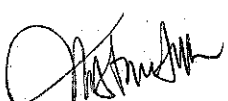
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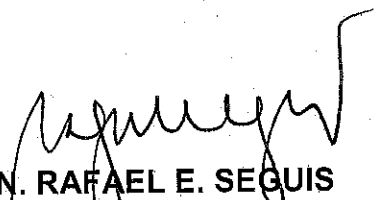
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IN WITNESS WHEREOF, the PARTIES through their authorized representatives hereto have SIGNED this AGREEMENT on _____, in Pasay City, Metro Manila.

For the Procuring Entity:

DEPARTMENT OF FOREIGN AFFAIRS

By Authority of the Secretary of Foreign Affairs:



HON. RAFAEL E. SEQUIS
Undersecretary for Administration
and Head of the Procuring Entity *al*


For the Contractor

AMERICAN TECHONOLOGIES INC.


MELINDA S. MEDALLA
Authorized Representative

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fin
WITNESSES


Atty. Alvar E. Rosales
Acting Chief Accountant
Department of Foreign Affairs
BN


JAMES CHRISTOPHER M. SERRANO
American Technologies Inc.





ACKNOWLEDGMENT

Republic of the Philippines)
Pasay City) s.s.

BEFORE ME, a NOTARY PUBLIC for and in the City of Pasay, Philippines, on MAR 03 2014 personally appeared HONORABLE RAFAEL E. SEGUIS, Undersecretary for Administration of the Department of Foreign Affairs and MS. MELINDA S. MEDALLA, Authorized Representative of American Technologies Inc., known to me to be the same persons who executed the foregoing Agreement for the Lease Purchase of Remote Desktop System (RDS) Components, which instrument consists of _____ pages including the page on which this acknowledgement is written and the Annexes attached thereto, all pages of which have been signed by said PARTIES and their witnesses, and who acknowledged to me that the same is their free and voluntary act and deed and of the entities they represent.

The Philippine Passport / Philippine Government-Issued ID of the Parties were exhibited to me, the same bearing:

NAME	ID No.	PLACE OF ISSUE	DATE OF ISSUE
RAFAEL E. SEGUIS	Passport #00065751	Manila	5/11/2010
MELINDA S. MEDALLA	SOCIAL SECURITY SYSTEM # 33-4963580-3	Quezon City	2011

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day, year and in the place above written.

Doc. No. 77
Page No. 8
Book No. 243
Series of 2014

NOTARY PUBLIC
UNTIL DECEMBER 31, 2014
PTR NO. 2413105 / 2014 MLA
IBP NO. 943989 / 2014 MLA
ROLL NO. 24655 / TIN NO. 144619088
MOLE III - 0013521
COMMISSION NO. 2213-043

[Handwritten signatures]

[Handwritten signatures]

AUTHORITY OF SIGNATORY

SECRETARY'S CERTIFICATE

I, Norbert Co Shu Suenn, a duly elected and qualified Corporate Secretary of AMERICAN TECHNOLOGIES, INC, a corporation duly organized and existing under and by virtue of the law of the Republic of the Philippines, DO HEREBY CERTIFY, that:

I am familiar with the facts herein certified and duly authorized to certify the same;

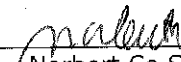
At the regular meeting of the Board of Directors of the said Corporation duly convened and held on March 14, 2013 at which meeting a quorum was present and acting throughout, the following resolutions were approved, and the same have not been annulled, revoked and amended in any way whatever and are in full force and effect on the date hereof:

RESOLVED, that American Technologies, Inc be, as it hereby is, authorized to participate in the bidding of the Bidding of Lease-Purchase of Remote Desktop System (RDS) Components; and that if awarded the project shall enter into a contract with the Department of Foreign Affairs (DFA); and in connection therewith hereby appoint Melinda S. Medalla, acting as duly authorized and designated representatives of American Technologies Inc., are granted full power and authority to do, execute and perform any and all acts necessary and/or to represent American Technologies Inc. in the bidding as fully and effectively as the corporation might do if personally present with full power of substitution and revocation and hereby satisfying and confirming all that my said representative shall lawfully do or cause to be done by virtue hereof;

RESOLVED FURTHER THAT, the American Technologies Inc. hereby authorizes its President to:

- (1) execute a waiver of jurisdiction whereby the corporation hereby submits itself to the jurisdiction of the Philippine government and hereby waives its right to question the jurisdiction of the Philippine courts;
- (2) execute a waiver that the corporation shall not seek and obtain writ of injunctions or prohibition or restraining order against the AFP or any other agency in connection with this project to prevent and restrain the bidding procedures related thereto, the negotiating of and award of a contract to a successful bidder, and the carrying out of the awarded contract.


WITNESS the signature of the undersigned as such officer of the said this DEC 17 2013.


Norbert Co Shu Suenn
Vice President/Corporate Secretary

ACKNOWLEDGMENT

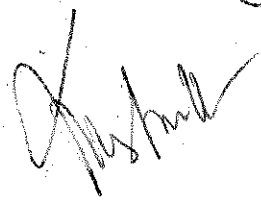
DEC 17 2013

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____, affiant exhibited to me his/her Valid Identification Document: Passport No. EB1909273 issued by DFA Manila on February 11, 2011 valid until February 10, 2016, at Quezon City, Philippines.

Notary Public 
Until 31 December 2013 **DELFIN R. AGCAOILI, JR.**
PTR No. **NOTARY PUBLIC**
Issued at: **UNTIL DECEMBER 31, 2013**
Issued on: **PTR NO. 0285334 / 2012-2013 MLA**
TIN No. **IBP NO. 873692 / 2013 MLA**
ROLL NO. 2406 / 2013-2014-519-002
MCLE NO. 100,000

Doc. No. 170
Page No. 17
Book No. 459
Series of 1000

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Bid Form

Date: December 19, 2013
Invitation to Bid N^o: PB-GS-025-2013

To: Department of Foreign Affairs – Bids and Awards Committee
(DFA-BAC) Secretariat Office, 12th floor, DFA Main Building,
2330 Roxas Boulevard, Pasay City, 1300 Philippines

Gentlemen and/or Ladies:

Having examined the Bidding Documents including Bid Bulletin Numbers 1 the receipt of which is hereby duly acknowledged, we, the undersigned, offer to **FOR THE LEASE PURCHASE OF REMOTE DESKTOP SYSTEM (RDS) COMPONENTS** in conformity with the said Bidding Documents for the sum of Five million eight hundred ninety-nine thousand nine hundred eighty-nine pesos only (PHP 5,899,989.00) or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

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

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

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

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


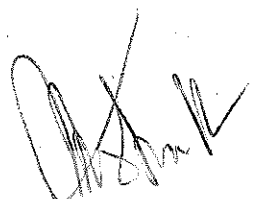
Name and address Commission or gratuity	Amount and	Purpose of agent	Currency
N/A	N/A	N/A	

(if none, state "None")

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


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

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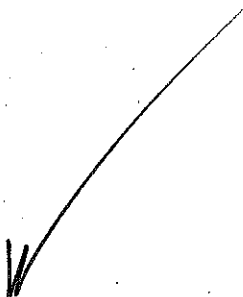



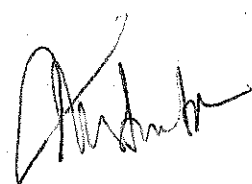

We certify/confirm that we comply with the eligibility requirements as per ITB Clause 5 of the Bidding Documents.

Dated this 19th day of December 2013 _____.


Melinda S. Medalla
Authorized Representative

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

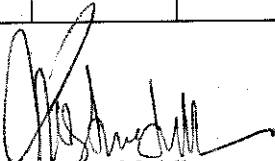


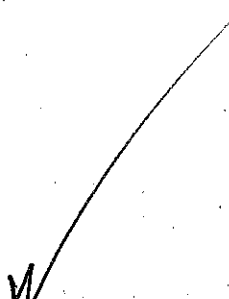
For Goods Offered From Within the Philippines

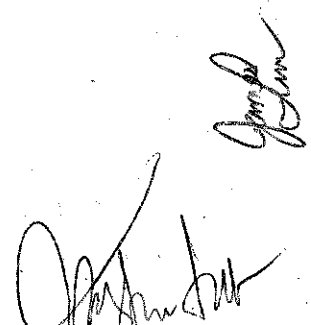
Name of Bidder AMERICAN TECHNOLOGIES, INC. Invitation to Bid Date PB-GS-025-2013

1	2	3	4	5	6	7	8	9	10
Item	Description	Country of origin	Quantity	Unit price EXW per item	Cost of local labor, raw material, and component ²	Total price EXW per item (cols. 4 x 5)	Unit prices per item final destination and unit price of other incidental services	Sales and other taxes payable per item if Contract is awarded	Total Price delivered Final Destination (col 8 + 9) x 4
1 LOT	Lease – Purchase of Remote Desktop System (RDS) Components	TAIWAN	1 LOT	PHP 5,899,989.00	No Cost	PHP 5,899,989.00	PHP 5,191,990.32	PHP 707,998.68	PHP 5,899,989.00


Melinda S. Medalla
Authorized Representative

American Technologies, Inc.





Section VI. Schedule of Requirements


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

Item Number	Description	Quantity	Total	Delivered, Weeks/Months
1	Industrial Grade Active Directory/Terminal Server	2 units	2 units	Sixty (60) calendar days from the date of notice to proceed
2	Gigabit Managed Network Switch	2 units	2 units	
3	24-Port Network Switches	20 units	20 units	
4	Thin Client	55 units	55 units	
5	18.5" LED Monitor	55 units	55 units	
6	QWERTY Keyboard	55 units	55 units	
7	Optical Mouse	55 Units	55 Units	
8	AVR – Metal Cased with at least 3 sockets	70 Units	70 Units	
9	1 Terabyte External Hard Drive	1 Unit	1 Unit	
10	Desktop Computers	15 units	15 units	
11	Data Recover Software	1 Unit	1 Unit	
12	Microsoft Windows Server 2012 64 bit Standard Edition	2 Licenses	2 License s	
13	Windows Client Access License	55 Licenses	55 License s	
14	Terminal Server Access License	55 Licenses	55 License s	
15	Microsoft Office 2010 (Volume Licenses)	70 licenses	70 licenses	
16	Intel Xeon E5620 2.4GHz 12 M or its equivalent (Processor only)	3 units	3 units	
17	4GB DDR3 1333 ECC REG or its equivalent (RAM only)	9 units	9 units	
18	Installation and Configuration	1 Lot	1 Lot	


19	8 x 5 Technical Support (phone, e-mail, chat, and onsite)	1 Lot	1 Lot	Within four (4) hours from the Procuring Entity's posting of the request for technical support
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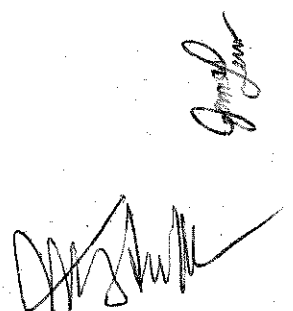
Note: This Schedule of Requirements must be signed by the Bidder or its authorized representative with statement of conformity/compliance, and submitted together with other required documents on or before the Deadline for Submission of Bids.

Conforme:


Marcela S. Medalla
Authorized Representative

American Technologies, Inc.





Section VII. Technical Specifications

Note on the Technical Specifications

Bidders must state here either "Comply" or "Not Comply" against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of "Comply" or "Not Comply" must be supported by evidence in a Bidders Bid and cross-referenced to that evidence. Evidence shall be in the form of manufacturer's un-amended sales literature, unconditional statements of specification and compliance issued by the manufacturer, samples, independent test data etc., as appropriate. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the Bid under evaluation liable for rejection. A statement either in the Bidders statement of compliance or the supporting evidence that is found to be false either during Bid evaluation, post-qualification or the execution of the Contract may be regarded as fraudulent and render the Bidder or supplier liable for prosecution subject to the provisions of ITB Clause 3.1(a)(ii) and/or GCC Clause 2.1(a)(ii).

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[Signature]

[Signature]

Section VII. Technical Specifications

Item	Specification	Statement of Compliance
2 units	Industrial Grade Active Directory/Terminal Server	COMPLY
	• Dual CPU Intel Xeon 4 Core E5600series or its equivalent	COMPLY
	• 6 x 4GB DDR3 1333 ECC REG Memory	COMPLY
	• 3 x 1 TB SSD 2.5 Hard Disk Capacity	COMPLY
	• 800 Watts Power Supply 1 +1 Redundant	COMPLY
	• Optical Disk Drive SATA DVD	COMPLY
	• Certified Industrial Grade	COMPLY
	• 2 years hardware warranty	COMPLY
2 units	Gigabit Managed Network Switch	COMPLY
	• 24 10/100/1000T +4 Combo (100 or 1000 Mbps)	COMPLY
	• Forward rate: 50.6 Mbps	COMPLY
	• Switching Fabric: 88 Gbps	COMPLY
	• Flash: 16MB	COMPLY
	• RAM: 128MB	COMPLY
	• Stackable via HDMI port	COMPLY
	• 5 years hardware warranty	COMPLY
20 units	24-Port Network Switches	COMPLY
55 units	Thin Client	COMPLY
	• Centerm Model GM810B or its equivalent	COMPLY
	• Processor – AMD Fusion T40N 1.0 GHz (Dual Core) or its equivalent	COMPLY
	• Operating System – Windows CE	COMPLY
	• Ports – USB x 6 (side x 4, back x 2)	COMPLY
	• 1 year hardware warranty	COMPLY
	• Must be compatible with the Procuring Entity's existing Remote Desktop System(RDS)	COMPLY
55 units	18.5" LED Monitor	COMPLY
55 units	QWERTY Keyboard	COMPLY
55 Units	Optical Mouse	COMPLY
70 Units	AVR – Metal Cased with at least 3 sockets	COMPLY
1 Unit	1 Terabyte External Hard Drive	COMPLY
15 units	Desktop Computers	COMPLY
	• Intel i5 3 rd Gen Series or its equivalent	COMPLY
	• DDR3 1333 ECC REG (4GB)	COMPLY
	• 500GB 3.5" SATA HDD	COMPLY
	• DVD R/RW	COMPLY
	• 18.5" LED Monitor	COMPLY
	• QWERTY Keyboard	COMPLY
	• Optical Mouse	COMPLY
	• Single Power Supply	COMPLY

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	<ul style="list-style-type: none"> Windows 8 Professional (OEM) 1 year warranty 	COMPLY COMPLY
	Data Recover Software	COMPLY
1 Unit	<ul style="list-style-type: none"> Host OS: Windows 9x, ME, NT, 2000, XP, 2003 Server, Vista, 2008 Server. Windows 7. 	COMPLY
	<ul style="list-style-type: none"> Data recovery over the Network. Files can be recovered on network computers running Win95/98/ME/NT/2000/XP/2003/Vista/2008/Windows 7, Macintosh, Linux, and UNIX. 	COMPLY
	<ul style="list-style-type: none"> Supported file systems: FAT12, FAT16, FAT32, exFAT, NTFS, NTFS5 (created or updated by Win2000/XP/2003/Vista/2008/Win7), HFS/HFS+ (Macintosh), Little and Big Endian variants of UFS1/UFS2 (FreeBSD/OpenBSD/NetBSD/Solaris) and Ext2/Ext3/Ext4 FS (Linux). 	COMPLY
	<ul style="list-style-type: none"> Recognition and parsing Dynamic (Windows 2000/XP/2003/Vista/2008/Win7), Basic(MBR) and BSD (UNIX) partitions layout schema and Apple partition map. Dynamic partitions over GPT are supported as well as dynamic partitions over MBR. 	COMPLY
	<ul style="list-style-type: none"> Damaged RAID recovery. If the OS cannot recognize your RAID, you can create a virtual RAID from its components. Such virtual RAID can be processed like a real one. 	COMPLY
	<ul style="list-style-type: none"> Creates IMAGE FILES for an entire Hard Disk, Partition or its part. Such image files can be compressed and split into several files to put it on CD/DVD/flash or FAT16/FAT32/exFAT. Then the image files can be processed like regular disks. 	COMPLY
	<ul style="list-style-type: none"> Data recovery on damaged or deleted partitions, encrypted files (NTFS 5), alternative data streams (NTFS, NTFS 5). 	COMPLY
	<ul style="list-style-type: none"> Recovering data if: <ul style="list-style-type: none"> FDISK or other disk utilities have been run; VIRUS has invaded; FAT is damaged; MBR is destroyed. 	COMPLY COMPLY COMPLY
	<ul style="list-style-type: none"> Recognizes localized names. 	COMPLY
	<ul style="list-style-type: none"> Recovered files can be saved on any (including network) disks accessible by the host operating system. 	COMPLY
	Microsoft Software Licenses	COMPLY
2 Licenses	Microsoft Windows Server 2012 64 bit Standard Edition	COMPLY
55 Licenses	Windows Client Access License	COMPLY
55 Licenses	Terminal Server Access License	COMPLY
70 licenses	Microsoft Office 2010 (Volume License)	COMPLY
	Peripheral Parts	COMPLY
3 units	Intel Xeon E5620 2.4GHz 12 M or its equivalent	COMPLY
9 units	4GB DDR3 1333 ECC REG or its equivalent	COMPLY
1 Lot	Installation and Configuration	COMPLY
	Installation and configuration of the Remote Desktop System(RDS) components and peripheral parts to the existing	COMPLY
	RDS infrastructure of the Procuring Entity (Annex A to Section VII).	COMPLY

W

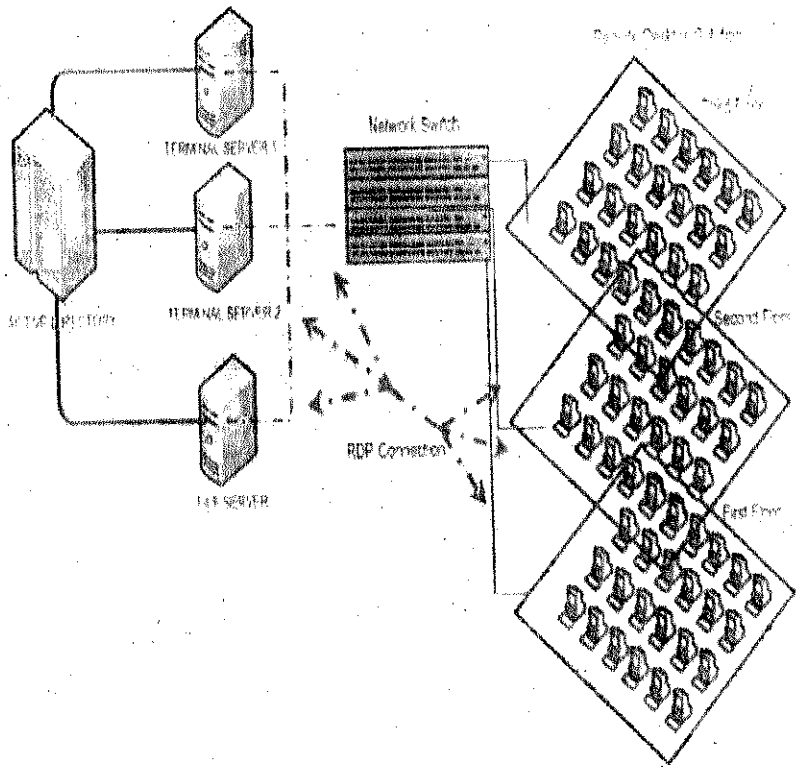
Amber

Opel

ANNEX A TO SECTION VII


	System Design for Remote Desktop Solution	
	Department of Foreign Affairs	

COMPLY



Note: This Technical Specifications must be signed by the Bidder or its authorized representative with statement of conformity/compliance, and submitted together with other required documents on or before the Deadline for Submission of Bids.

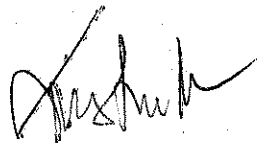
Conforme:


Melinda S. Medalla
Authorized Representative

American Technologies, Inc







Kagawaran ng Agnayang Panlabas



Department of Foreign Affairs

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FOREIGN AFFAIRS
BIDS AND AWARDS COMMITTEE
2330 Roxas Boulevard, Pasay City
Tel. Nos. 834-4116; Fax No. 831-9584
Email: bac.secretariat@dfa.gov.ph

SUPPLEMENTAL / BID BULLETIN No. 1

PROJECT : Lease Purchase of Remote Desktop System (RDS) Components
REF. NO : PB-GS-025-2013
DATE : 06 December 2013
ABD : PhP5,930,000.00

This supplemental/bid bulletin is issued to provide prospective bidders for the above-named Project additional data to the Bidding Documents, particularly on the following:

Schedule of Requirements

- Delivery Schedule is extended from forty-five (45) calendar days to sixty (60) calendar days from the date of Notice to Proceed.

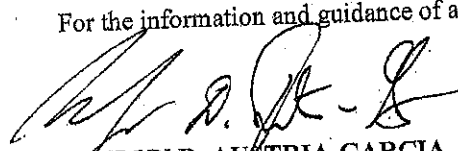
All prospective bidders are likewise informed that the DFA-BAC has rescheduled the following activities:

Deadline for Submission of Bids	Opening of Bids
19 December 2013 Thursday, 12:00 noon	19 December 2013 Thursday, 2:00 pm

DFA-BAC will only accept bids from those who have paid the non-refundable bidding document fee of Ten Thousand Pesos (Php10,000.00). Bidders shall indicate the amount paid and the Official Receipt No. on the cover of their Bid Envelopes.

Deadline for submission of bids to the BAC Secretariat Office is at **12:00 noon of 19 December 2013 (Thursday)** and no further revisions of schedules shall be made by the DFA-BAC for this Project. Late bids shall not be accepted.

For the information and guidance of all concerned.


EVELYN D. AUSTRIA-GARCIA
Chairman
Bids and Awards Committee

Section IV. General Conditions of Contract

Notes on the General Conditions of Contract

Section IV. General Conditions of Contract (GCC) should be read in conjunction with Section V. Special Conditions of Contract (SCC) and other documents listed therein. Both the GCC and the SCC enumerates all the rights and obligations of the parties.

It is understood that the Bidder, by submitting a bid for the Project, has understood and agrees to all the terms and conditions contained in both the GCC and the SCC.

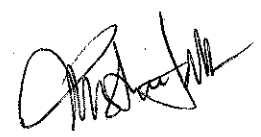


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1. Definitions

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 receipt by the Supplier of the Notice to Proceed or the date provided in the Notice to Proceed. Performance of all obligations shall be reckoned from the Effective Date of the Contract.
- (n) "Verified Report" refers to the report submitted by the Implementing Unit to the Head of the Procuring Entity setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

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

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

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

(ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.

(iii) "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.

(iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

(v) "obstructive practice" is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

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

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

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

3. Inspection and Audit by the Funding Source

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

4. Governing Law and Language

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

5. Notices

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

6. Scope of Contract

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

7. Subcontracting

- 7.1. Subcontracting of any portion of the Goods, if allowed in the **BDS**, does not relieve the Supplier of any liability or obligation under this Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants or workmen as fully as if these were the Supplier's own acts, defaults, or negligence, or those of its agents, servants or workmen.

- 7.2. Subcontractors disclosed and identified during the bidding may be changed during the implementation of this Contract, subject to compliance with the required qualifications and the approval of the Procuring Entity.

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 Head of the Procuring Entity to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in GCC Clause 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.
- 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.

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. For Goods supplied from abroad, the terms of payment shall be as follows:

- (a) On Contract Signature: Ten percent (10%) 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: Seventy percent (70%) 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.

11.3. All progress payments shall first be charged against the advance payment until the latter has been fully exhausted.

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

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 and 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 ten percent (10%) of the final payment, or a special bank guarantee equivalent to at least ten percent (10%) of the 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 shall rescind 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 Contractor could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Contractor. 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 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.

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 Head of the Procuring Entity shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:
 - (i) that this Contract is being terminated for any of the ground(s) aforementioned, 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 Head of the Procuring Entity a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the Procuring Entity shall issue an order terminating this Contract;
- (e) The Procuring Entity may, at 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 Head of the Procuring Entity shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The Head of the Procuring Entity may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the Procuring Entity; 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

Notes on the Special Conditions of Contract

This Section should be read and interpreted in relation to corresponding clauses in the GCC.

The provisions of this Section complement the GCC, specifying contractual requirements linked to the special circumstances of the Procuring Entity, the Procuring Entity's country, the sector, and the Goods purchased.

The DFA-BAC, however, reserves the right to revise, modify or alter any and/or all of the provisions in the SCC in order to conform to the true intent of the Project.

✓

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Special Conditions of Contract

GCC Clause	
1.1(g)	The Procuring Entity is <i>the Department of Foreign Affairs</i>
1.1(i)	The Supplier is _____
1.1(j)	The Funding Source is the Government of the Philippines (GOP) through <i>the Government Appropriations Act of 2013</i> in the amount of <i>Five Million Nine Hundred Thirty Thousand Pesos only (Php 5,930,000.00)</i>
1.1(k)	The Project Site is the Department of Foreign Affairs, 2330 Roxas Blvd. Pasay City.
5.1	<p>The Procuring Entity's address for Notices is:</p> <p><i>DFA Bids and Awards Committee (DFA-BAC) Secretariat 12th floor DFA Building, 2330 Roxas Blvd. Pasay City, 1300 Philippines</i></p> <p>The Supplier's address for Notices is: <i>[Insert address including, name of contact, fax and telephone number]</i></p>
6.2	<p>Delivery and Documents –</p> <p>For purposes of the Contract, "EXW," "FOB," "FCA," "CIF," "CIP," "DDP" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of INCOTERMS published by the International Chamber of Commerce, Paris. The Delivery terms of this Contract shall be as follows:</p> <p><i>For Goods Supplied from Abroad, state "The delivery terms applicable to the Contract are DDP delivered to the Department of Foreign Affairs, 2330 Roxas Blvd. Pasay City. In accordance with INCOTERMS."</i></p> <p><i>For Goods Supplied from Within the Philippines, state "The delivery terms applicable to this Contract are delivered to the Department of Foreign Affairs, 2330 Roxas Blvd. Pasay City. Risk and title will pass from the Supplier to the Procuring Entity upon receipt and final acceptance of the Goods at their final destination."</i></p> <p>Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in Section VI. Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are as follows:</p> <p><i>For Goods supplied from within the Philippines:</i></p> <p>Upon delivery of the Goods to the Project Site, the Supplier shall notify the Procuring Entity and present the following documents to the Procuring Entity:</p> <p>(i) Original and four copies of the Supplier's invoice showing Goods'</p>

	<p>description, quantity, unit price, and total amount;</p> <p>(ii) Original and four copies delivery receipt/note, railway receipt, or truck receipt;</p> <p>(iii) Original Supplier's factory inspection report;</p> <p>(iv) Original and four copies of the Manufacturer's and/or Supplier's warranty certificate;</p> <p>(v) Original and four copies of the certificate of origin (for imported Goods);</p> <p>(vi) Delivery receipt detailing number and description of items received signed by the authorized receiving personnel;</p> <p>(vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity's representative at the Project Site; and</p> <p>(viii) Four copies of the Invoice Receipt for Property signed by the Procuring Entity's representative at the Project Site.</p> <p><i>For Goods supplied from abroad:</i></p> <p>Upon shipment, the Supplier shall notify the Procuring Entity and the insurance company by cable the full details of the shipment, including Contract Number, description of the Goods, quantity, vessel, bill of lading number and date, port of loading, date of shipment, port of discharge etc. Upon delivery to the Project Site, the Supplier shall notify the Procuring Entity and present the following documents as applicable with the documentary requirements of any letter of credit issued taking precedence:</p> <p>(i) Original and four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;</p> <p>(ii) Original and four copies of the negotiable, clean shipped on board bill of lading marked "freight pre-paid" and five copies of the non-negotiable bill of lading ;</p> <p>(iii) Original Supplier's factory inspection report;</p> <p>(iv) Original and four copies of the Manufacturer's and/or Supplier's warranty certificate;</p> <p>(v) Original and four copies of the certificate of origin (for imported Goods);</p> <p>(vi) Delivery receipt detailing number and description of items received signed by the Procuring Entity's representative at the Project Site;</p> <p>(vii) Certificate of Acceptance/Inspection Report signed by the Procuring Entity's representative at the Project Site; and</p> <p>(viii) Four copies of the Invoice Receipt for Property signed by the Procuring Entity's representative at the Project Site.</p> <p>For purposes of this Clause, the Procuring Entity's Representative at the Project Site is the Director of the Communication (CORATEL) and Management Information System Division (Director, CMISD)</p> <p>Incidental Services –</p>
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The Supplier is required to provide all of the following services, including additional services, if any, specified in Section VI. Schedule of Requirements:

- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
- (d) performance or supervision or maintenance and/or repair of the supplied Goods, for the duration of the agreement, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract;
- (e) **provide technical support via phone, e-mail, chat, or on-site within four (4) hours from the Supplier's receipt of the Procuring Entity's request; and**
- (f) training of the Procuring Entity's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

The Contract price for the Goods 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.

Spare Parts –

The Supplier is required to provide all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

- (a) such spare parts as the Procuring Entity may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under this Contract; and
- (b) in the event of termination of production of the spare parts:
 - i. advance notification to the Procuring Entity of the pending termination, in sufficient time to permit the Procuring Entity to procure needed requirements; and
 - ii. following such termination, furnishing at no cost to the Procuring Entity, the blueprints, drawings, and specifications of the spare parts, if requested.

The spare parts required are listed in Section VI. Schedule of Requirements and the cost thereof are included in the Contract Price

The Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the Goods for a period of one (1) year from the date of final acceptance.

Other spare parts and components shall be supplied as promptly as possible, but in any case within three (3) months of placing the order.

Packaging --

The Supplier shall provide such packaging of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in this Contract. The packaging shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packaging case size and weights shall take into consideration, where appropriate, the remoteness of the GOODS' final destination and the absence of heavy handling facilities at all points in transit.

The packaging, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified below, and in any subsequent instructions ordered by the Procuring Entity.

The outer packaging must be clearly marked on at least four (4) sides as follows:

Name of the Procuring Entity

Name of the Supplier

Contract Description

Final Destination

Gross weight

Any special lifting instructions

Any special handling instructions

Any relevant HAZCHEM classifications

A packaging list identifying the contents and quantities of the package is to be placed on an accessible point of the outer packaging if practical. If not practical the packaging list is to be placed inside the outer packaging but outside the secondary packaging.

Insurance --

The Goods supplied under this Contract shall be fully insured by the Supplier in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. The Goods remain at the risk and title of the Supplier until their final acceptance by the Procuring Entity.

Transportation --

Where the Supplier is required under Contract to deliver the Goods CIF, CIP or DDP, transport of the Goods to the port of destination or such other named place of destination in the Philippines, as shall be specified in this

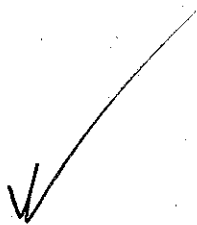
	<p>Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.</p> <p>Where the Supplier is required under this Contract to transport the Goods to a specified place of destination within the Philippines, defined as the Project Site, transport to such place of destination in the Philippines, including insurance and storage, as shall be specified in this Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.</p> <p>Where the Supplier is required under Contract to deliver the Goods CIF, CIP or DDP, Goods are to be transported on carriers of Philippine registry. In the event that no carrier of Philippine registry is available, Goods may be shipped by a carrier which is not of Philippine registry provided that the Supplier obtains and presents to the Procuring Entity certification to this effect from the nearest Philippine consulate to the port of dispatch. In the event that carriers of Philippine registry are available but their schedule delays the Supplier in its performance of this Contract the period from when the Goods were first ready for shipment and the actual date of shipment the period of delay will be considered <i>force majeure</i> in accordance with GCC Clause 22.</p> <p>The Procuring Entity accepts no liability for the damage of Goods during transit other than those prescribed by INCOTERMS for DDP Deliveries. In the case of Goods supplied from within the Philippines or supplied by domestic Suppliers risk and title will not be deemed to have passed to the Procuring Entity until their receipt and final acceptance at the final destination.</p> <p>Patent Rights –</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 use of the Goods or any part thereof.</p> <p>Disposition –</p> <p>At the regular termination of the agreement, all Goods supplied under this agreement shall become the property of the Procuring Entity. The supplier, therefore, is obligated to turn-over all access and/or administrative rights, codes, or keys to the system components and other equipment. The supplier shall likewise turn over all documentations related to the Goods, particularly on the software licenses and equipment warranties.</p> <p>In case of default by any of the Parties, the Procuring Entity has absolute rights over the data and information stored in the components covered under the lease agreement.</p>
10	<p>The Procuring Entity shall pay the Supplier the Contract Price on a monthly basis for twelve (12) months.</p> <p>The monthly payments shall be in the amount of _____.</p>

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11	Not applicable.
13.4(c)	No further instructions.
16.1	The Procuring Entity shall conduct inspections and tests within five (5) working days after every delivery and/or installation by the Supplier.
17.3	<p>All Goods found to be defective within one (1) month of the Procuring Entity's acceptance shall be replaced with a brand new unit. Replacement must be made within thirty (30) days from the Supplier's receipt of the Procuring Entity's written notification of warranty claims.</p> <p>Unless otherwise stated in the technical specifications (Section VII) of each equipment, the Supplier shall provide one (1) year warranty on parts and labor of the Remote Desktop System components and other goods covered by the agreement.</p>
17.4	The period for correction of defects within the warranty period is five (5) working days for material and workmanship.
21.1	No additional provision. But if the Supplier is a joint venture, all partners to the joint venture shall be jointly and severally liable to the Procuring Entity.



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NOTICE OF AWARD

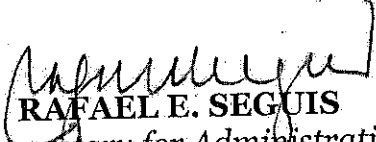
27 December 2013

Madam:

Please be informed that, upon the recommendation of the Bids and Awards Committee (BAC) of the Department of Foreign Affairs as contained in its Resolution No. 204-13, the Department is awarding the Contract for Lease Purchase of Remote Desktop System (RDS) Components for FY 2014, to your firm, **AMERICAN TECHNOLOGIES, INC.**, for a period of one (1) year, in the amount of Five Million Eight Hundred Ninety-Nine Thousand Nine Hundred Eighty Nine Pesos (Php 5,899,989,000.00) only, inclusive of all taxes and other lawful charges, subject to the successful signing of the Contract and posting of the required performance security within ten (10) calendar days from receipt of this Notice.

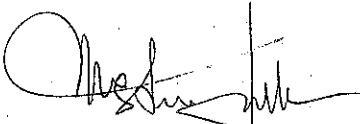
Very truly yours,

By authority of the Secretary of Foreign Affairs:


RAFAEL E. SEGUIS
Undersecretary for Administration
and Head of the Procuring Entity

Conforme:

For: AMERICAN TECHNOLOGIES INC.

**MS. MELINDA S. MEDALLA**

Authorized Representative

AMERICAN TECHNOLOGIES INC.

#5 Ideal St. cor. Mc. Collough Addition Hills
Mandaluyong City

Date: Jan. 10, 2014





Philippine National Bank

AUTHORIZED DEPOSITORY OF THE REPUBLIC OF THE PHILIPPINES
GREENHILLS LOANS AND TRADE CENTER
ROOM 205 LIMKETKAI BLDG. ORTIGAS AVE., GREENHILLS SAN JUAN
TEL NO. 723-5323 / 726-0822 / 723-0905 FAX NO. 724-3326

Nº 03483

January 16, 2014

SBLC No. GLTC2014294DLC

DEPARTMENT OF FOREIGN AFFAIRS
2330 ROXAS BLVD., PASAY CITY

Gentlemen:

By order and for account of **AMERICAN TECHNOLOGIES INC.**, with business address at No. 5 Ideal St. Cor. Mc Collough St. Brgy. Additionhills Mandaluyong City (hereinafter referred to as the "Accountee"), we hereby issue our Irrevocable Standby Letter of Credit No. **GLTC2014294DLC** (hereinafter referred to as the "Credit") in favor of yourselves (hereinafter referred to as the "Beneficiary") for an amount not exceeding PHILIPPINE PESOS: TWO HUNDRED NINETY FOUR THOUSAND NINE HUNDRED NINETY NINE & 45/100 ONLY (PHP294,999.45) to serve as performance guarantee for Lease Purchase of Remote Desktop System (RDS) Components for FY 2014.

This Standby Letter of Credit shall be available upon our receipt of Beneficiary's written demand through their banker accompanied by the following documents:-

1. Original of this Standby Letter of Credit;
2. Original certification under oath by a duly authorized representative of the Beneficiary indicating this Letter of Credit number attesting to the fact that the Accountee, **AMERICAN TECHNOLOGIES INC.** has failed to timely perform its obligations under the Contract. This certification shall be final and conclusive.

This Standby Letter of Credit expires on January 05, 2015 at the counter of Philippine National Bank, with business address at Room 205 Limketkai Building Ortigas Avenue, Greenhills San Juan, Philippines, provided always that we reserve the right to discharge our obligations hereunder by payment in full of the undrawn portion of the Letter of Credit at any time on or before the expiry date whereupon this Letter of Credit shall automatically expire.

This Letter of Credit is subject to the International Standby Practices, ISP98, International Chamber of Commerce Publication No. 590 and shall be governed by and construed in accordance with Philippine Law. In the event of any inconsistency, the Philippine Law shall prevail.

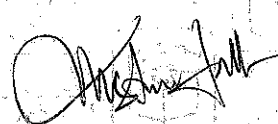
We hereby undertake to honor demand for payment under and in accordance with the terms and conditions of this Standby Letter of Credit.


RONALD U. BANOG, AM2


HAZEL S. HONG, M2

For confirmation purposes, pls send to Ms. Melita C. Tan, FVP, Operations Head at 6754 Alliedbank Center, Ayala, Makati City







NOTICE TO PROCEED

03 March 2014

Madam:

Please be informed that pursuant to the Notice of Award dated 27 December 2013, issued by the Undersecretary for Administration and Head of the Procuring Entity, **AMERICAN TECHNOLOGIES, INC.**, is hereby given this Notice to Proceed and render its services to provide for the Lease Purchase of Remote Desktop System Components in accordance with the requirements for procurement.

Very truly yours,


RAFAEL E. SEGUIS

Undersecretary for Administration
and Head of the Procuring Entity

Conforme:

03/13/14


MS. MELINDA S. MEDALLA

Authorized Representative

AMERICAN TECHNOLOGIES

5 Ideal St. cor. Mc Collough Addition Hills
Mandaluyong City



NOTICE TO PROCEED

03 March 2014

Madam:

Please be informed that pursuant to the Notice of Award dated 27 December 2013, issued by the Undersecretary for Administration and Head of the Procuring Entity, **AMERICAN TECHNOLOGIES, INC.**, is hereby given this Notice to Proceed and render its services to provide for the Lease Purchase of Remote Desktop System Components in accordance with the requirements for procurement.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Rafael E. Seguis'.

RAFAEL E. SEQUIS

Undersecretary for Administration
and Head of the Procuring Entity

Conforme:

MS. MELINDA S. MEDALLA

Authorized Representative

AMERICAN TECHNOLOGIES

5 Ideal St. cor. Mc Collough Addition Hills

Mandaluyong City

NOTICE TO PROCEED

20 February 2014

Madam:

Please be informed that pursuant to the Notice of Award dated 27 December 2013, issued by the Undersecretary for Administration and Head of the Procuring Entity, **AMERICAN TECHNOLOGIES, INC.**, is hereby given this Notice to Proceed and render its services to provide for the Lease-Purchase of the Department's Remote Desktop System (RDS) Components for FY 2014 in accordance with the requirements for procurement.

Very truly yours,

RAFAEL E. SEGUIS

Undersecretary for Administration
and Head of the Procuring Entity

Conforme:

MS. MELINDA S. MEDALLA
Authorized Representative
AMERICAN TECHNOLOGIES
5 Ideal St. cor. Mc. Collough
Addition Hills, Mandaluyong City

Sr. Sp. Asst. N. Servigon	_____
BAC Alt. Chairman E.D. Austria-Garcia	_____
BAC Vice-Chairman J.V.Chan-Gonzaga	_____
BAC Members: E.C. Yulo	_____
G.P. Abiog	_____
G.B. Musor	_____
B.T.L. Santos	_____
End-user Representative:	
Prin. Asst. A.J.A. Estomo	_____
BAC Secretariat:	
Head - A.O. Vallespin	_____
A. De Asis-Del Mundo	_____
S.P. Toledo	_____
G.C. Fernandez	_____



NOTICE OF AWARD

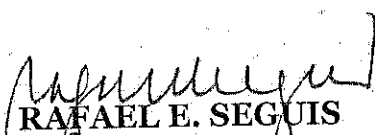
27 December 2013

Madam:

Please be informed that, upon the recommendation of the Bids and Awards Committee (BAC) of the Department of Foreign Affairs as contained in its Resolution No. 204-13, the Department is awarding the Contract for Lease Purchase of Remote Desktop System (RDS) Components for FY 2014, to your firm, **AMERICAN TECHNOLOGIES, INC.**, for a period of one (1) year, in the amount of Five Million Eight Hundred Ninety-Nine Thousand Nine Hundred Eighty Nine Pesos (Php 5,899,989,000.00) only; inclusive of all taxes and other lawful charges, subject to the successful signing of the Contract and posting of the required performance security within ten (10) calendar days from receipt of this Notice.

Very truly yours,

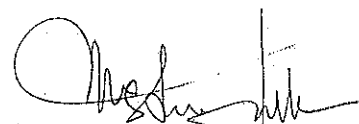
By authority of the Secretary of Foreign Affairs:



RAFAEL E. SEGUIS
Undersecretary for Administration
and Head of the Procuring Entity

Conforme:

For: AMERICAN TECHNOLOGIES INC.

**MS. MELINDA S. MEDALLA**

Authorized Representative

AMERICAN TECHNOLOGIES INC.

#5 Ideal St. cor. Mc. Collough Addition Hills
Mandaluyong CityDate: Jan. 10, 2014

**CONTRACT AGREEMENT FORM
FOR THE LEASE PURCHASE OF REMOTE DESKTOP SYSTEM (RDS)
COMPONENTS**

KNOW ALL MEN BY THESE PRESENTS:

This Contract Agreement for the Lease Purchase of Remote Desktop System (RDS) Components, (hereinafter, the AGREEMENT), entered into in Pasay City, Philippines, on MAR 03 2014, 2013 between the:

The **DEPARTMENT OF FOREIGN AFFAIRS**, (hereinafter, the **PROCURING ENTITY**), with principal office address at 2330 Roxas Blvd., Pasay City, Metro Manila, represented by its Undersecretary for Administration and Head of the Procuring Entity (HOPE) Honorable **RAFAEL E. SEGUIS**,

and

AMERICAN TECHNOLOGIES INC. (hereinafter, the **CONTRACTOR**), is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 5 Ideal, Addition Hills, Mandaluyong City, represented by **MELINDA S. MEDALLA**, who is duly authorized to enter into this Agreement pursuant to the Secretary's Certificate dated 17 December 2013, a copy of which is attached as **ANNEX A** and made an integral part of this Agreement.

WITNESSETH:

WHEREAS the **PROCURING ENTITY** invited bids for the Lease Purchase of Remote Desktop System (RDS) Components, and has accepted a bid by the **CONTRACTOR** for the supply of said goods and services in the sum of Five Million Eight Hundred Ninety-Nine Thousand Nine Hundred Eighty-Nine Pesos only (PHP 5,899,989.00) (hereinafter called the **CONTRACT PRICE**), inclusive of all taxes and other lawful charges.

NOW, THEREFORE, for and in consideration of the foregoing premises, the **PARTIES** agree as follows:

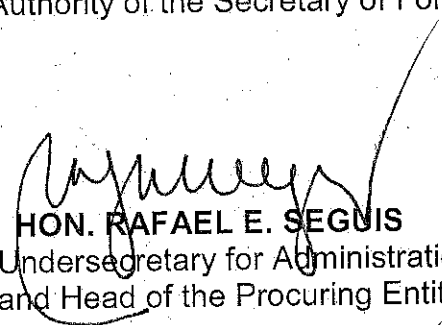
1. The definitions found in the General Conditions of Contract (GCC) and Special Conditions of Contract contained in the Philippine Bidding Documents for Procurement of Goods issued by the Government Procurement Policy Board (GPPB) are deemed incorporated in this AGREEMENT.
2. The following documents are attached and made integral parts of this AGREEMENT:
 - 2.1 Bid Form and Price Schedule submitted by the Supplier (ANNEX B)
 - 2.2 Schedule of Requirements (ANNEX C)
 - 2.3 Technical Specifications (ANNEX D)
 - 2.4 General Conditions of Contract (ANNEX E)
 - 2.5 Special Conditions of Contract (ANNEX F)
 - 2.6 Supplemental Bid Bulletin No. 1 dated 06 December 2013 (ANNEX G)
 - 2.7 Notice of Award dated 27 December 2013. (ANNEX H)

3. The CONTRACTOR shall deliver the goods to the address specified in Section VI. Schedule of Requirements within one hundred twenty (120) calendar days from receipt of the Notice to Proceed. The CONTRACTOR guarantees the quality, genuineness and availability of all the materials and equipment to be supplied and delivered. The CONTRACTOR shall make good at its own expense and account, any defect or defects that may be discovered by the PROCURING ENTITY.
4. For and in consideration of the delivery of the goods and services, the PROCURING ENTITY shall pay the CONTRACTOR the CONTRACT PRICE. The terms of payment shall be in accordance with the provisions of Sections 10 and 11 of the GCC, which is attached and made an integral part of this Agreement (ANNEX E and ANNEX F).

IN WITNESS WHEREOF, the PARTIES through their authorized representatives hereto have SIGNED this AGREEMENT on _____, in Pasay City, Metro Manila.

For the Procuring Entity:

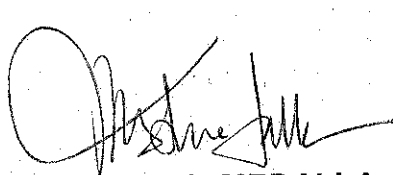
DEPARTMENT OF FOREIGN AFFAIRS
By Authority of the Secretary of Foreign Affairs:


HON. RAFAEL E. SEGUIS
Undersecretary for Administration
and Head of the Procuring Entity

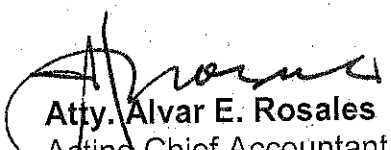
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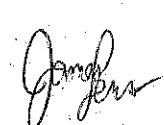
For the Contractor

AMERICAN TECHNOLOGIES INC.

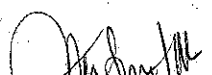

MELINDA S. MEDALLA
Authorized Representative

WITNESSES


Atty. Alvar E. Rosales
Acting Chief Accountant
Department of Foreign Affairs


JAMES CHRISTOPHER M. SERRANO
American Technologies Inc.





**CONTRACT AGREEMENT FORM
FOR THE LEASE PURCHASE OF REMOTE DESKTOP SYSTEM (RDS)
COMPONENTS**

KNOW ALL MEN BY THESE PRESENTS:

This Contract Agreement for the Lease Purchase of Remote Desktop System (RDS) Components, (hereinafter, the AGREEMENT), entered into in Pasay City, Philippines, on _____, 2013 between the:

The **DEPARTMENT OF FOREIGN AFFAIRS**, (hereinafter, the **PROCURING ENTITY**), with principal office address at 2330 Roxas Blvd., Pasay City, Metro Manila, represented by its Undersecretary for Administration and Head of the Procuring Entity (HOPE) Honorable **RAFAEL E. SEGUIS**,

and

AMERICAN TECHNOLOGIES INC. (hereinafter, the **CONTRACTOR**), is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 5 Ideal, Addition Hills, Mandaluyong City, represented by **MELINDA S. MEDALLA**, who is duly authorized to enter into this Agreement pursuant to the Secretary's Certificate dated 17 December 2013, a copy of which is attached as **ANNEX A** and made an integral part of this Agreement.

WITNESSETH:

WHEREAS the **PROCURING ENTITY** invited bids for the Lease Purchase of Remote Desktop System (RDS) Components, and has accepted a bid by the **CONTRACTOR** for the supply of said goods and services in the sum of Five Million Eight Hundred Ninety-Nine Thousand Nine Hundred Eighty-Nine Pesos only (PHP 5,899,989.00) (hereinafter called the **CONTRACT PRICE**), inclusive of all taxes and other lawful charges.

NOW, THEREFORE, for and in consideration of the foregoing premises, the **PARTIES** agree as follows:

1. The definitions found in the General Conditions of Contract (GCC) and Special Conditions of Contract contained in the Philippine Bidding Documents for Procurement of Goods issued by the Government Procurement Policy Board (GPPB) are deemed incorporated in this AGREEMENT.
2. The following documents are attached and made integral parts of this AGREEMENT:
 - 2.1 Bid Form and Price Schedule submitted by the Supplier (ANNEX B)
 - 2.2 Schedule of Requirements (ANNEX C)
 - 2.3 Technical Specifications (ANNEX D)
 - 2.4 General Conditions of Contract (ANNEX E)
 - 2.5 Special Conditions of Contract (ANNEX F)
 - 2.6 Supplemental Bid Bulletin No. 1 dated 06 December 2013 (ANNEX G)
 - 2.7 Notice of Award dated 27 December 2013. (ANNEX H)

Received by;

Feb. 19, 2014

RAFAEL E. SEGUIS

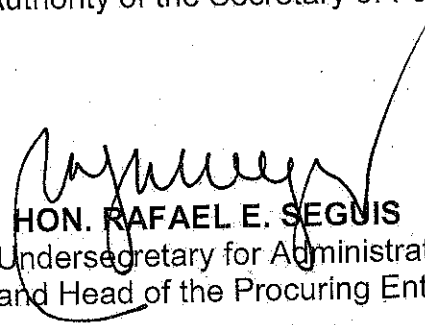
3. The CONTRACTOR shall deliver the goods to the address specified in Section VI. Schedule of Requirements within one hundred twenty (120) calendar days from receipt of the Notice to Proceed. The CONTRACTOR guarantees the quality, genuineness and availability of all the materials and equipment to be supplied and delivered. The CONTRACTOR shall make good at its own expense and account, any defect or defects that may be discovered by the PROCURING ENTITY.
4. For and in consideration of the delivery of the goods and services, the PROCURING ENTITY shall pay the CONTRACTOR the CONTRACT PRICE. The terms of payment shall be in accordance with the provisions of Sections 10 and 11 of the GCC, which is attached and made an integral part of this Agreement (ANNEX E and ANNEX F).

IN WITNESS WHEREOF, the PARTIES through their authorized representatives hereto have SIGNED this AGREEMENT on _____, in Pasay City, Metro Manila.

For the Procuring Entity:

DEPARTMENT OF FOREIGN AFFAIRS

By Authority of the Secretary of Foreign Affairs:


HON. RAFAEL E. SEGUIS
Undersecretary for Administration
and Head of the Procuring Entity

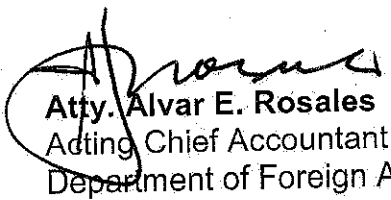
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For the Contractor

AMERICAN TECHNOLOGIES INC.

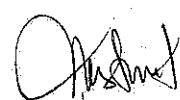

MELINDA S. MEDALLA
Authorized Representative

WITNESSES


Atty. Alvar E. Rosales
Acting Chief Accountant
Department of Foreign Affairs


JAMES CHRISTOPHER M. SERRANO
American Technologies Inc.







Kagawaran ng Ugnayang Panlabas

BIDS AND AWARDS COMMITTEE

Department of Foreign Affairs

BAC Resolution No. 204-13

RESOLUTION RECOMMENDING THE AWARD OF CONTRACT FOR THE LEASE PURCHASE OF REMOTE DESKTOP SYSTEM (RDS) COMPONENTS

WHEREAS, the CORATEL – Management Information Systems Division of the Office of the Secretary (OSEC-CMISD), intends to procure through Lease Purchase Remote Desktop System (RDS) Components for the Department of Foreign Affairs;

WHEREAS, the Office of Fiscal Management (OFM) issued a Certificate of Availability of Funds for the Department's Lease Purchase of RDS Components in the amount of Five Million Nine Hundred Thirty Thousand (Php 5,930,000.00);

WHEREAS, on 22 November 2013, in compliance with Section 20.1 of the Revised Implementing Rules and Regulations (RIRR) of the Government Procurement Reform Act (R.A. 9184), the BAC with the Representatives from CMISD conducted a Pre-Procurement Conference to discuss the bidding documents, including the Terms of Reference (TOR), scope and duration, as well as the schedule of bidding activities for the project;

WHEREAS, in compliance with Section 21.2 of the RIRR of R.A. 9184, the Department of Foreign Affairs (DFA) posted, for seven (7) calendar days on the PhilGEPS, DFA website and in conspicuous places within the premises of the Department an Invitation to Bid for the Lease Purchase of RDS Components, and also advertised the same on the December 6, 2013 issue of the Manila Times;

WHEREAS, in response to the said advertisements, only one (1) company, **American Technologies Inc. (ATI)**, purchased the Bid Documents;

WHEREAS, on 06 December 2013, in compliance with Section 22 of the RIRR of R.A. 9184, the DFA-Bids and Awards Committee (DFA-BAC), in the presence of the representatives from CMISD, held a Pre-Bid Conference with the prospective bidders to discuss the eligibility requirements and the technical and financial components of the contract to be bid and to allow the bidder to raise or submit written queries or clarifications;

WHEREAS, on 19 December 2013, during the Opening of Bids, consistent with Section 23 of the RIRR of R.A. 9184 as the only bidder which submitted their sealed Eligibility and Technical Requirements, and Financial Proposal envelopes, American Technologies Inc. was declared **"ELIGIBLE TO BID"**, as well as **"TECHNICALLY COMPLYING"**;

WHEREAS, on 23 December 2013, in compliance with Section 34 of the RIRR of R.A. 9184, American Technologies Inc., after being declared as the company with the Lowest Calculated Bid underwent Post Qualification conducted by the BAC-Technical Working Group (TWG), in the presence the representative from CMISD, and was determined to have passed all the criteria for Post-Qualification;

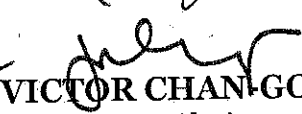
WHEREAS, premises considered, the Committee unanimously resolves to recommend to the Head of the Procuring Entity (HOPE) of the Department of Foreign Affairs:

- 1) to award the contract for the Lease Purchase of Remote Desktop System (RDS) Components to **AMERICAN TECHNOLOGIES INC.** for having submitted the **Single Calculated Responsive Bid** in the amount of Five Million Eight Hundred Ninety-Nine Thousand Nine Hundred Eighty-Nine Pesos (Php 5,899,989.00) only; and,
- 2) to commence the Contract Signing with **AMERICAN TECHNOLOGIES INC.** upon the issuance of the Notice of Award and posting of the required performance security.

ADOPTED this 27th day of December 2013, Pasay City.



EVELYN D. AUSTRIA-GARCIA
BAC Chairman



JOSE VICTOR CHAN-GONZAGA
BAC Vice-Chairman



SHIRLEY E. BANQUICIO
BAC Member

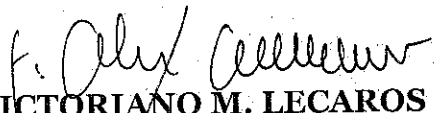


BERTRAND THEODOR SANTOS
BAC Member



ARVIC V. AREVALO
BAC Member

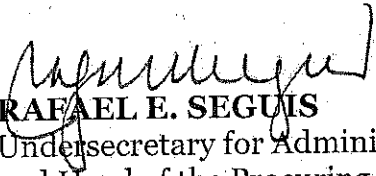
GERARDO ABIOG
BAC Member



VICTORIANO M. LECAROS
BAC Provisional Member
Representative of the End-User

Approved:

By the Authority of the Secretary of Foreign Affairs:



RAFAEL E. SEGUIS
Undersecretary for Administration
and Head of the Procuring Entity

**CONTRACT AGREEMENT FORM
FOR THE LEASE PURCHASE OF REMOTE DESKTOP SYSTEM (RDS)
COMPONENTS**

KNOW ALL MEN BY THESE PRESENTS:

This Contract Agreement for the Lease Purchase of Remote Desktop System (RDS) Components, (hereinafter, the AGREEMENT), entered into in Pasay City, Philippines, on MAR 03 2014, 2013 between the:

The **DEPARTMENT OF FOREIGN AFFAIRS**, (hereinafter, the **PROCURING ENTITY**), with principal office address at 2330 Roxas Blvd., Pasay City, Metro Manila, represented by its Undersecretary for Administration and Head of the Procuring Entity (HOPE) Honorable **RAFAEL E. SEGUIS**,

and

AMERICAN TECHNOLOGIES INC. (hereinafter, the **CONTRACTOR**), is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at 5 Ideal, Addition Hills, Mandaluyong City, represented by **MELINDA S. MEDALLA**, who is duly authorized to enter into this Agreement pursuant to the Secretary's Certificate dated 17 December 2013, a copy of which is attached as ANNEX A and made an integral part of this Agreement.

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NOW, THEREFORE, for and in consideration of the foregoing premises, the **PARTIES** agree as follows:

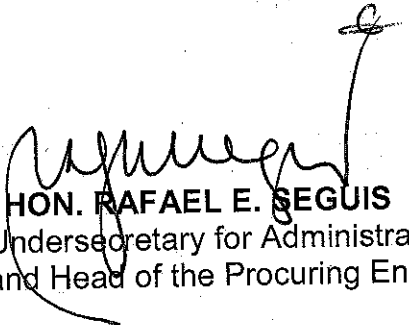
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IN WITNESS WHEREOF, the PARTIES through their authorized representatives hereto have SIGNED this AGREEMENT on _____, in Pasay City, Metro Manila.

For the Procuring Entity:

DEPARTMENT OF FOREIGN AFFAIRS
By Authority of the Secretary of Foreign Affairs:

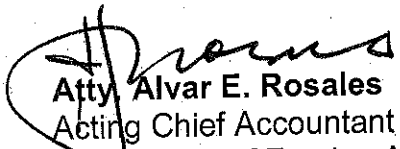
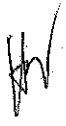

HON. RAFAEL E. SEGUIS
Undersecretary for Administration
and Head of the Procuring Entity *al*


For the Contractor

AMERICAN TECHNOLOGIES INC.

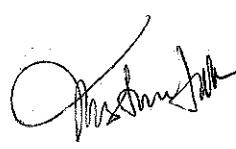

MELINDA S. MEDALLA
Authorized Representative


WITNESSES


Atty. Alvar E. Rosales
Acting Chief Accountant
Department of Foreign Affairs



JAMES CHRISTOPHER M. SERRANO
American Technologies Inc.





ACKNOWLEDGMENT

Republic of the Philippines)

~~Pasay City~~
~~MANILA~~

) s.s.


BEFORE ME, a NOTARY PUBLIC for and in the City of ~~Pasay~~ ~~MANILA~~ Philippines, on MAR 03 2014 personally appeared HONORABLE RAFAEL E. SEGUIS, Undersecretary for Administration of the Department of Foreign Affairs and MS. MELINDA S. MEDALLA, Authorized Representative of American Technologies Inc., known to me to be the same persons who executed the foregoing Agreement for the Lease Purchase of Remote Desktop System (RDS) Components, which instrument consists of _____ pages including the page on which this acknowledgement is written and the Annexes attached thereto, all pages of which have been signed by said PARTIES and their witnesses, and who acknowledged to me that the same is their free and voluntary act and deed and of the entities they represent.

The Philippine Passport / Philippine Government-Issued ID of the Parties were exhibited to me, the same bearing:

NAME	ID No.	PLACE OF ISSUE	DATE OF ISSUE
RAFAEL E. SEGUIS	Passport #00065751	Manila	5/11/2010
MELINDA S. MEDALLA	SOCIAL SECURITY SYSTEM # 33-4963580-3	QUEZON CITY	2011

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day, year and in the place above written.

Doc. No. 77
Page No. 8
Book No. 298
Series of 2014


ATYDELFIN R. ASCAOILI JR.
NOTARY PUBLIC
UNTIL DECEMBER 31, 2014
PTR NO. 2413103 / 2014 MALA
IBP NO. 0439889 / 2014 MALA
ROLL NO. 24355 / TIN NO. 144-519030
MCLE III - 0013521
COMMISSION NO. 2013-023

