



**NATIONAL FOOD AUTHORITY**

Regional Office 1

San Juan, La Union

**REQUEST FOR QUOTATION**

**NEGOTIATED PROCUREMENT THRU EMERGENCY CASES (SECTION 53.2 OF THE IRR OF RA 9184) OF THE 2016 PALAY MILLING SERVICES FOR NFA ABRA AND EASTERN PANGASINAN (LEFT-OUT VOLUME)**

\_\_\_\_\_ **Date**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sir/Madam:

Please fill-up the required items below and quote your HIGHEST GUARANTEED MILLING RECOVERY (GMR) PERCENTAGE per province, but not lower than 63% GMR, subject to the attached Terms of Reference (TOR) and submit this quotation duly signed by you or your authorized representative to the RBAC Secretariat at the NFA Regional Office 1, San Juan, La Union **not later than January 23, 2017, 10:00 AM.**

**ROLANDO S. RUFO**

Acting Assistant Regional Manager/  
RBAC Chairperson

***Note/Reminders:***

1. All items must be typewritten or legibly handwritten.
2. Quotation/s (GMR) must not be lower than 63%.
3. Delivery/Implementation period shall be in accordance with the provincial milling plan.
4. Bid validity shall be for a period of 120 calendar days.

**ITEM : CY 2016 PALAY MILLING SERVICES OF NFA ABRA AND EASTERN PANGASINAN**

Lot No.	Province	Description	Quantity					Unit Price (Php)	Total Price (Php)
			Palay Input, Bags			Rice Recovery, Bags			
			Vty	Qty*	GMR %	Vty	Qty		
1	Abra	Milling Services for Well Milled Rice (WMR)	PD1			WD1		110.00	
2	Eastern Pangasinan		PD1			WD1		110.00	

\*Computation for Palay Input: \_\_\_\_\_ bags/hr cap. x \_\_\_\_\_ hrs/day x \_\_\_\_\_ milling days

*Submit bids/quotations personally or through your duly authorized representative to the NFA Region 1 RBAC Secretariat on or before the specified deadline, using this form together with the following eligibility and other documentary requirements in a sealed envelope:*

1. Registration Certificate from SEC for corporation, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives, or any proof of such registration;
2. Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas.

In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit, provided that the renewed permit shall be submitted as a post qualification requirement in accordance with Section 34.2 of this IRR;

3. Tax Clearance per Executive Order 398, series of 2005 as finally reviewed and approved by the BIR
4. Audited Financial Statements for CY 2015, stamped "received" by the BIR or its duly accredited and authorized institutions, such as:
  - a. Balance Sheet
  - b. Income Statement
  - c. Independent Auditors Report certifying that he/she has examined/audited the financial statements
5. Certificate of PhilGEPS Registration
6. Certificate of Accreditation issued by the concerned Provincial Office

*Submit also two (2) photocopies of the bid/quotation and of the above eligibility and other documentary requirements in separate sealed envelopes*

**REPLY FROM PROSPECTIVE CONTRACTOR**

TO : **ROLANDO S. RUFO**  
Assistant Regional Director/  
RBAC Chairperson

Sir:

After having carefully read and accepted the terms and conditions as per attached **TERMS OF REFERENCE FOR THE NEGOTIATED PROCUREMENT THRU EMERGENCY CASES (SECTION 53.2 OF THE IRR OF RA 9184) OF THE 2016 PALAY MILLING SERVICES OF NFA ABRA AND NFA EASTERN PANGASINAN (LEFT-OUT VOLUME)**, I hereby submit my quotation/s on the specified item/s at the GMR% quoted above, along with the attached documents as required.

\_\_\_\_\_  
*Printed Name and Signature of Miller/Offeror*

\_\_\_\_\_  
*Name of Ricemill*

\_\_\_\_\_  
*Address of Ricemill*

\_\_\_\_\_  
*Telephone No. / Cellphone No. / e-mail address*

\_\_\_\_\_  
*Date*



**NATIONAL FOOD AUTHORITY**

Regional Office 1  
San Juan, La Union

January 16, 2017

FOR : **Dir. GENARO S. NUNEZ**  
Regional Manager II

FROM : **The Regional Bids and Awards Committee**

SUBJECT : **TERMS OF REFERENCE FOR THE NEGOTIATED PROCUREMENT THRU EMERGENCY CASES (SECTION 53.2 OF THE IRR OF RA 9184) OF THE 2016 PALAY MILLING SERVICES OF NFA ABRA AND EASTERN PANGASINAN (LEFT-OUT VOLUME)**

The NFA Region 1 Bids and Awards Committee (RBAC) hereby recommends the following Terms and Conditions to be adopted in the conduct of bidding (Alternative Method: Negotiated Procurement thru Emergency Cases [Sec. 53.2 of the IRR of RA 9184]) for the procurement of 2016 Milling Services for palay stocks of NFA Abra and Eastern Pangasinan (Left-Out Volume).

**I. RATIONALE**

The bidding of Milling Services will be undertaken to achieve the following:

1. To uphold transparency and accountability;
2. To achieve equity, effectiveness, efficiency and economy; and
3. To award the palay milling contract to the miller whose bid/offer is most advantageous to the government.

The **Negotiated Procurement thru Emergency Cases (Sec. 53.2 of the IRR of RA 9184)** shall be applied in the bidding for palay milling services contract/s. Pursuant to approved RBAC Resolution No. 057 Series of 2016 dated October 24, 2016, this alternative method was resorted to in order to mill all the palay stocks of NFA Abra and Eastern Pangasinan in compliance to ODAMO-2K16-H-01 dated August 15, 2016 and AO-2016-H-021 dated August 23, 2016, and to augment food security and operational stocks of the two Provincial Offices.

**II. QUALIFICATION OF BIDDERS**

1. Ricemill owners with ricemills that can meet the following specifications are qualified to participate in the bidding:

Milling Recovery	63.0% for WMR (minimum)
Dehuller	Rubber-Roll Type with 80.0% Hulling Efficiency (minimum)
Polisher	Abrasive and/or Friction Type
Rice By-Product Recovery	10% bran recovery (maximum) for Multi-Pass RMs 15% bran recovery (maximum) for Single-Pass RMs
Destoner	With destoner/s

2. Defaulting miller-contractors are not qualified to participate in the bidding. To ensure that only miller-contractors in good standing shall participate in the bidding, all interested contractors shall secure a clearance from the NFA Provincial Office in their area of operation.

### III. SCHEDULE OF REQUIREMENTS

Withdrawal of palay and delivery period for rice recoveries shall be time-bounded and based on the average input capacity per test milling results and milling is at 12-hour/day (min) to 16- hour/day (max) and 6 days/week (max) milling operation.

Based on ricemilling capabilities, milling timetable and volume to be milled are as follows:

PROV	PALAY		GMR (63% min) bags	NO. OF PROS- PECTIVE RICE- MILLERS	EXISTING CAPACITY OF RMs IN THE AREA, BAGS/HR*	MILLING PERIOD** (days)
	VAR	QNTY More or Less, Bags				
ABR	PD1	9,804	6,176.52	2	40.84	20
EPGS	PD1	20,346	12,817.98	1	67	25
TOTAL		30,150	18,994.50			

\* Computed based on average Input Capacity per test milling results.

\*\* Basis of computation for the volume to bid

### IV. SUBJECT MATTER AND APPROVED BUDGET FOR THE CONTRACT

The herein terms and conditions shall govern and apply to the procurement of palay milling services for the 30,150 bags more or less of palay stocks stored at different warehouses in NFA Abra and Eastern Pangasinan, including the delivery of the main product recoveries for the duration of the milling period. The project is covered by the total Approved Budget for the Contract/s (ABC) of **PESOS: Two Million Eighty Nine Thousand Three Hundred Ninety Five and 00/100 (P2,089,395.00) only, inclusive of VAT** as approved per RBAC Resolution No. A-003 series of 2017 dated January 16, 2017, which is divided into the following lots per province:

PROV	PALAY		GMR (63%min) Bags	MILLING FEE, PhP/bag output	DELIVERY FEE, (Inc. of VAT) PhP/bag output	APPROVED BUDGET FOR THE CONTRACT PhP
	VAR	QTY More or Less, Bags				
ABR	PD1	9,804	6,176.52	90.00	20.00	679,417.20
EPGS	PD1	20,346	12,817.98	90.00	20.00	1,409,977.80
TOTAL		30,150	18,994.50	90.00	20.00	2,089,395.00

### V. MILLING SPECIFICATIONS

PARAMETERS	PALAY INPUT
	PD1
1. Minimum GMR	63%
2. Broken Max. (total incl. brewers)	35%
3. Brewers, max.	2%
4. Discolored and Damaged Kernels (max)	7.0%
5. Foreign Matters	0.20%
6. Paddy, max. (no. per 1,000 grams)	25
7. Moisture Content, max.	14%

8. Bran Streaks	1-19%
9. Milling Degree	Well Milled

## VI. SCHEDULE OF NEGOTIATED PROCUREMENT

The activities for the Negotiated Procurement will be conducted at NFA Regional Office 1 Conference Room, San Juan, La Union on the following schedule:

ACTIVITY	SCHEDULE (DATE/TIME)
1. POSTING AND DISSEMINATION OF REQUEST FOR QUOTATION, INCLUDING TERMS OF REFERENCE	January 16, 2017 to January 22, 2017 8:00 AM to 5:00 PM January 23, 2017 8:00 AM to 9:00 AM (excluding Saturdays, Sundays and holidays)
2. DEADLINE OF SUBMISSION OF SEALED QUOTATIONS	January 23, 2017; NLT 10:00 AM
3. OPENING OF SEALED QUOTATIONS	January 23, 2017 10:01 AM onwards

Bids and other documentary requirements must be submitted to the RBAC Secretariat not later than the deadline of submission and opening of sealed quotation on January 23, 2017.

Sealed bids will be opened in the presence of invited observers and bidder/s (or authorized representatives) who chose to attend the bidding. Late bids shall not be accepted.

## VII. BIDDING FEES AND ISSUANCE OF BID DOCUMENTS

Pursuant to GPPB Resolution No. 04-2012 dated February 24, 2012, approving the Guidelines on the Sale of Bidding Documents, prospective bidder/s may purchase the bidding documents (composed of the **Request for Quotation** and **Terms of Reference**) from the RBAC Secretariat upon payment of the corresponding non-refundable bidding fee per lot as follows:

For Lot 1: Abra

Milling Capacity (Bags/Hour)	Maximum Cost of Bidding Documents (Php)
18 bags/hr and below	500.00
19 bags/hr up to 37 bags/hr	1,000.00

For Lot 2: Eastern Pangasinan

Milling Capacity (Bags/Hour)	Maximum Cost of Bidding Documents (Php)
13 bags/hr and below	500.00
14 bags/hr up to 26 bags/hr	1,000.00
27 bags/hr up to 130 bags/hr	5,000.00

## VIII. SUBMISSION AND RECEIPT OF SEALED QUOTATION

Bidders shall submit to the NFA Region 1 RBAC Secretariat **not later than 10:00 AM on January 23, 2017, the original/certified photocopy and two (2) certified photocopies of the following eligibility and other documentary requirements**, along with **three (3) copies of the duly accomplished Quotation Form** which shall be sealed in separate envelopes:

1. Registration certificate from SEC for corporation, Department of Trade and Industry (DTI) for sole proprietorship, or CDA for cooperatives, or any proof of such registration;

2. Mayor's/Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas.

In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit, provided that the renewed permit shall be submitted as a post qualification requirement in accordance with Section 34.2 of this IRR.

3. Tax Clearance per Executive Order 398, series of 2005 as finally reviewed and approved by the BIR.
4. Audited Financial Statements for CY 2015, stamped "received" by the BIR or its duly accredited and authorized institutions, such as:
  - A. Balance Sheet
  - B. Income Statement
  - C. Independent Auditors Report certifying that he/she has examined/audited the financial statements
5. Certificate of PhilGEPS Registration
6. Certificate of Accreditation issued by the concerned Provincial Office.
7. Duly Accomplished Quotation Form

#### **IX. HOW TO BID/BID OFFER**

1. Bidding shall be on a per lot/province basis. A specific quantity shall be awarded to the bidder who can offer the highest GMR. In no case shall the quantity awarded exceed the milling capacity of the bidder as per latest NFA Test Milling Results for WMR. Additional license fees shall be paid by the concerned miller should the milling capability of the ricemill is higher than that of NFA licensing records.
2. Volume for bidding per ricemill shall be based on the latest input capacity per CY 2016 average WMR test milling results, computed on a 12-hour/day operation at 6 days a week and equivalent to the number of days milling period as indicated in the Schedule of Requirements.
3. Bidders shall indicate in their offer the Lot/Province where preferred stocks is to be bid, volume to be bid, the percentage (%) GMR which should not be lower than the minimum GMR of 63.0% for WMR and the corresponding milling fee which should not be lower than the ABC of the lot to be bid. The ABC of the lot to be bid is indicated in Exhibit 1. Any bid falling below the minimum 63.0% for WMR or lower than the ABC of the lot shall be automatically disqualified.
4. Bidders shall be ranked according to their bid %age GMR. Award shall be given first to the bidder who offered the highest %age GMR after post-qualification procedures have been undertaken, then to the next ranking bidder until all the volume have been completely exhausted.
5. In case of tie in the offered GMR between two or more bidders after post-qualification procedures have been undertaken, award shall be given first to the bidder with the highest

volume bid/offered, then to the next highest until all the volume have been completely exhausted.

Volume per lot/province to be bid shall be as follows:

LOT NO.	PROVINCE	VAR	VOLUME, bags
1	Abra	PD1	9,804
2	Eastern Pangasinan	PD1	20,346
TOTAL			30,150

#### **X. PERFORMANCE SECURITY BOND**

To guarantee the faithful performance of all the terms and conditions of the Contract, the Contractor shall file a bond which shall be in the form acceptable to NFA.

1. Cash or Cashier/ Manager's Check issued by a Universal or Commercial Bank.
2. Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank, Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.
3. Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such.
4. Any combination of the foregoing.

Such bond shall be equivalent to one hundred percent (100%) of the book value of issued stocks from one (1) day to a maximum of 6-days palay input capacity of the Contractor's mill on a 12-hour per day operation including its containers (sacks containing the palay) and the commensurate number of empty sacks issued for rice recoveries plus 10% allowance. The bond shall answer for the shortages/losses, expenses and/or incidental differential cost that NFA may incur in the application of the provisions of the contract, including damages, penalties, attorney's fees and cost of suit. The bond shall not be released by NFA until such time that the Contractor has been cleared by the NFA management of its obligations.

#### **XI. FIRE INSURANCE COVERAGE**

Contractor shall secure Fire Insurance from an Insurer duly registered with the Office of the Insurance Commission and acceptable to the NFA to cover fire, floods and typhoons and other Acts of God in an amount equivalent to One Hundred Percent (100%) of the book value of the palay stocks and sacks issued to the Contractor at a maximum of six (6) day milling capacity of the mill on a 12-hour per day operation. The insurance shall be effective on the day of the first issuance of the stocks to the Contractor.

In case the Contractor opted to file a "Cash Bond", the bond may also apply to cover/answer incidence of fire, floods, typhoons and other Acts of God to reduce the number of securities required in the contract.

#### **XII. DUTIES AND RESPONSIBILITIES OF NFA**

1. NFA Regional Office shall issue the Notice to Proceed (NTP) to the winning bidder upon receipt of the Performance Bond
2. NFA shall initially issue two (2) batches of palay, each batch shall be equivalent from one (1) day to three (3) days milling capacity of the mill on a 12-hour operation. A succeeding batch shall be issued only after one preceding batch is fully liquidated thru the submission of a Milling Report by the Contractor, certified correct by the Milling Supervisor and noted by the Provincial Manager together with relevant documents such as WSI/WSR and ESR/ESI. In this case, each batch shall be equivalent to \_\_\_\_\_ bags of 50 kg more or less per bag of palay.

For the purpose of issuance of stocks to the Contractor, one Authority to Issue (AI) shall cover only one batch.

Under no circumstances shall NFA have stocks with the Contractor in excess of the 6-day milling capacity of the mill on a 12-hour operation at any one time. Neither shall NFA issue palay of a different variety code and/or require different output unless the two batches of stocks previously issued has been fully liquidated by NFA Management.

3. No stocks shall be issued for milling in the absence of a performance security/bond in the amount and in form acceptable to NFA.
4. Stocks for milling shall only be issued to the contractor/attorney-in-fact or his/her duly authorized representative. They shall sign on the "received by" portion.
5. NFA shall issue Warehouse Stock Issue (WSI) to document the palay withdrawn by the Contractor and Warehouse Stock Receipt (WSR) to document the corresponding milled rice recoveries from the Contractor's mill delivered to the NFA designated receiving warehouse/s.
6. NFA shall entrust to the Contractor empty sacks to serve as containers for the milled rice due to the NFA.
7. NFA shall issue Empty Sack Issue (ESI) to document all issuance/s of empty sacks to Contractor and Empty Sack Receipt (ESR) to document all empty sacks returned to NFA from the Contractor's trust.
8. NFA shall shoulder all handling expenses incurred from the NFA pile up to the carrier (truck) during withdrawal of palay and empty sacks and from the carrier (truck) up to the NFA pile upon receipt of rice recoveries and empty sacks based on the approved existing NFA handling rates.
9. NFA shall pay the Contractor the delivery expense that the latter will incur in the delivery to NFA of the guaranteed rice output and empty sacks from the Contractor's millsite to the NFA designated warehouse at the NFA approved rate of P20.00/bag (Inclusive of VAT) regardless of distance covered.
10. NFA shall shoulder delivery fee/s incurred in the delivery of milled rice to the NFA designated warehouse. For this particular project, delivery fee shall be fixed at P 20.00/bag (inclusive of VAT) regardless of distance covered from the Contractor's millsite to the designated receiving warehouse/s.
11. It shall be the obligation of NFA to accept all deliveries of milled rice provided the deliveries conform with the NFA specifications.



12. In case NFA receives written report from the Contractor regarding suspension or stoppage of milling operations, the NFA shall verify the same immediately and the NFA Provincial Manager shall act expeditiously at his discretion upon verification of the following:
  - a. In case of mechanical breakdown of milling facilities, wait for the mill to be repaired or for the mill to resume operation or the termination of the contract due to emergency/force majeure/fortuitous event, as the case may be. No suspension of the delivery period shall be allowed if the Contractor has no written notice to NFA.
  - b. Get the services of another Contractor under the same terms at the Contractor's expense until the latter can comply with his obligations.
  - c. Compel the contractor for the specific performance plus damages; or
  - d. Rescission of the contract with damages. In this event, a new bidding of milling services should be conducted.

### **XIII. DUTIES AND RESPONSIBILITIES OF THE CONTRACTOR**

1. Contractor shall withdraw the palay and empty sacks from the NFA warehouse and shall transport to his millsite at his own expense.
2. Contractor shall, personally or through his representative duly authorized in writing, witness the weighing of palay issuance and acknowledge all palay and empty sacks issued by NFA in the WSI and ESI and the same for rice deliveries. The contents of these documents shall be conclusive so far as the issuances of the stocks/MTS are concerned. Likewise, the AI, WSI, SIA, ESI, WSR, ESR shall be the basis for the examination of the Contractor's accountability for palay, empty sacks and rice recoveries.
3. Contractor shall shoulder all handling expenses incurred from the carrier (truck) up to the miller's pile during the receipt of palay/empty sack and from miller's pile up to the carrier (truck) upon deliveries of milled rice, as well as all unused empty sacks.
4. Contractor shall ensure that palay sacks are not damaged during milling operations for NFA's recycling purposes.
5. Contractor undertakes to mill the NFA stocks at its ricemill located at \_\_\_\_\_ immediately upon receipt of palay stocks at a minimum rate of \_\_\_\_\_ bags input per 12-hour operation and six (6) days a week. Contractor shall prioritize the milling of the NFA stocks and milling shall be exclusive and continuous. In case Contractor fails to continuously and exclusively mill the NFA stocks, Contractor acknowledges NFA's right to terminate the contract with or without notice.
6. Contractor at his own account shall place the milled rice in the containers so provided by NFA to contain fifty (50) kilograms net weight. All required information (i.e. crop year, date of milling and name/address of Ricemill) shall be marked legibly (at least two inches in height) at the space provided for at the back of the rice MTS.
7. Since milling of NFA stocks is exclusive and continuous, Contractor shall ensure that NFA palay stocks, rice recoveries and empty sacks are segregated and are made identifiable from Contractor's stocks or piles. There shall be no co-mingling of Contractor's palay/rice/MTS stocks with NFA stocks. Enough space shall be provided for NFA stocks to allow for easy identification and inspection. In addition, bincards shall be placed in every pile.

8. Contractor shall not use hooks in handling the NFA's palay and milled rice stocks.
9. Contractor shall not charge storage fee while the stocks/empty sacks are in his custody.
10. Contractor shall deliver the milled rice and all palay empty sacks and unused rice empty sacks to the NFA designated warehouse under the account of NFA.
11. Delivery of the milled rice stocks and unused empty sacks shall start not later than the third (3<sup>rd</sup>) day from the date of the last WSI of a particular AI (batch) and shall be completed on the fifth (5<sup>th</sup>) day from the date of said last WSI. In case the Contractor fails to complete his delivery on the 5<sup>th</sup> day, for valid reason, the contractor shall notify NFA in writing. The NFA shall grant a grace period of six (6) days to deliver the rice recoveries and the unused sacks without penalty. Likewise, in case a grace period is granted, the imposition of penalty shall begin after the lapse of the grace period.
12. In case the milled rice output does not conform with the required milling quality specifications of the palay variety issued, the Contractor, together with the Milling Supervisor shall stop the milling operation and shall within 24 hours, notify NFA in writing their findings to the Provincial Manager.

Failure of the Contractor to notify NFA in writing of the incident and complete the milling with rice output not conforming with the variety of palay issued shall make him/her liable for the consequences.

13. Contractor shall secure Fire Insurance from an Insurer duly registered with the Office of the Insurance Commission and acceptable to the NFA to cover fire, floods and typhoons and other Acts of God in an amount equivalent to One Hundred Percent (100%) of the book value of the palay stocks and sacks issued to the Contractor at a maximum of six (6) day milling capacity of the mill on a 12-hour per day operation. The insurance shall be effective on the day of the first issuance of the stocks to the Contractor.

In case the Contractor opted to file a "Cash Bond", the bond may also apply to cover/answer incidence of fire, floods, typhoons and other Acts of God to reduce the number of securities required in the contract.

14. Contractor shall be responsible for the filing and payment of necessary taxes related to his/her milling transactions with NFA.
15. Contractor to allow the Regional/Provincial Task Force and any NFA authorized representative to conduct monitoring and inspection in the millsite from time to time, to check adherence to quality specifications and other aspects in connection with the milling operation.

#### **XIV. COMPENSATION**

##### **A. PAYMENT OF MILLING SERVICES AND DELIVERY FEES**

Payment for the milling services rendered shall be in kind. Under the PAYMENT-IN-KIND (PIK) SCHEME, the NFA agrees to pay and the Contractor agrees to accept as full payment, any and all rice by-products as well as the rice recoveries beyond the Guaranteed Milling Recovery (GMR) of the actual volume milled.

NFA shall pay the Contractor a delivery fee of P20.00 per bag (Inclusive of VAT) in the form of cash for every bag of milled rice output at fifty kilogram (50kg) delivered to NFA designated warehouse within each respective areas of operation.

#### **B. COMPUTATION OF VALUE ADDED TAX (VAT)**

Based on Provision (B)(f) of Sec. 4.109-1 of Revenue Regulations No. 16-2005: Consolidated Value-Added Tax Regulations of 2005 dated September 1, 2005, it is stated that "*Services by agricultural contract growers and milling for others of palay into rice, corn into grits, and sugar into raw sugar*" is considered under the VAT-Exempt Transactions.

Value Added Tax (VAT) shall only be deducted from the delivery fees paid to the contractor.

#### **XV. PROVISIONS COVERING SUB-STANDARD DELIVERIES**

1. The NFA shall not accept any milled rice deliveries if bran streaks are beyond the nineteen (19%) for WMR. Likewise, those beyond the +2% acceptable deviation of percentage brokens shall not be accepted. The transport, reprocessing and other expenses to be incurred shall be for the account of the Contractor which includes penalties for any delay in the delivery of rice recoveries. However, if from the sub-standard rice so delivered it is clearly apparent to NFA that the palay form was substituted with newly harvested palay or palay with inferior quality, and/or mixed/blended with sub-standard rice or substituted with inferior quality rice, the Contractor shall automatically be deemed in default.
2. The Contractor shall not be subject to imposition of the foregoing penalty if it is proven that the palay issued to the Contractor is of such inferior quality, that the agreed specification/milling degree could not be attained and if written advise to this effect is given to NFA upon commencement of milling and duly received by NFA. Should the Contractor fail to submit the aforementioned written advise, this exemption shall not apply.

#### **XVI. DELAYED DELIVERIES**

The Contractor shall be considered in delay if, without written justification, he fails to deliver the milled rice recovery within five (5) days, reckoned from the date of issuance of the WSI of a particular AI/batch under Par. IX sub-par 11 hereof. The Contractor shall pay a penalty for delay computed at 1/10<sup>th</sup> of 1% of the book value of the undelivered stocks/sacks per day of delay.

#### **XVII. DEFAULT**

1. The Contractor shall be considered in default upon the occurrence of any of the following incidents:
  - a. If the Contractor failed to deliver the stocks within the period allowed him;
  - b. If on any day after the issuance of stocks, no NFA stocks are in the ricemill and the Contractor has not made any delivery in whole or in part;
  - c. If the Contractor delivers milled rice recoveries which were adulterated, mixed/blended with sub-standard or substituted with inferior quality rice.

2. Upon the occurrence of any of the foregoing events of default, the NFA shall require the Contractor within fifteen (15) calendar days from Notice of Default to either:
  - a. Pay the cost of the remaining undelivered recoveries and the sacks based on the replacement cost; or
  - b. Restitute the undelivered stocks/sacks by delivering rice or palay or MTS plus pay a penalty computed at 1/10 of 1% of the book value of the undelivered stocks/sacks per day of delay starting from the day of default:
    - b.1. If restitution shall be in rice form, the rice shall be in accordance with the specification required of the stocks issued him and in such quantity that should be equivalent to the recoveries of the palay issued him plus the corresponding penalty.
    - b.2. If restitution shall be in palay form, such palay should be of the same quality as that issued to him and in such quantity that should be equivalent to the quantity issued him plus the corresponding penalty.

#### **XVIII. SPECIAL PROVISIONS**

1. Contractor shall be considered as trustee of the palay and/or rice and by-products and empty sacks and shall hold the same in trust from the time the Contractor acknowledges the receipt of palay and/or rice and by-products and empty sacks until such time that milled rice and empty sacks have been fully delivered to and accepted by the NFA.
2. It is understood that time is of the essence of the Contract and in case of failure of the Contractor to comply with the terms and conditions set forth, Contractor shall be held liable in accordance with existing laws and decrees if the fault is attributable to him.
3. In case the Contractor has any outstanding obligations with NFA, the latter shall have the right to retain 100% of the money value or whatever receivables Contractor may have from NFA and apply the same by way of compensation for the obligations.
4. In case of litigation arising from the Contract, the Contractor agrees to pay liquidated damages in the amount of P50,000.00 plus cost of suit.
5. The NFA does not warrant the full milling of the awarded volume during the effectivity of the milling contract which shall depend on its operational needs.
6. The basis for the examination of accountability of Contractor shall be the palay and empty sacks issued vis-à-vis rice deliveries and empty sacks returned.

#### **XIX. CONDUCT OF MILLING PROPER OPERATIONS**

1. The Notice to Proceed (NTP) shall be issued and served to the winning bidder indicating the palay source province and warehouse.
2. The Notice to Proceed (NTP) shall be issued and served to the winning bidder indicating the awarded volume.

3. Based on the Notice to Proceed, the Provincial Manager of concerned province will serve the following notices to the winning contractors to fast track the conduct of the milling activities:
- a. **Notice to Start** - specify date of start (reckoned on the date the first WSI is to be issued), volume to be milled and destination/receiving warehouse. The conduct of milling shall be continued until completion of the volume to be delivered as per Notice to Proceed.
  - b. **Notice to Suspend Milling** - in cases beyond the control of the winning Contractor (like bad weather, machine breakdown, report on non-conformance with stock specifications wherein the Provl. Milling Committee will undertake inspection/probing, etc.)
  - c. **Notice to Resume** - shall be issued after causes of disruption as stated in b.2 has been resolved and milling shall be resumed.
  - d. **Notice of Default/Failure to Comply** - shall be served to the Contractor if Contractor fails to comply with the provisions of Par. XIV.2 and be liable for the adverse effects of non-compliance. Failure of the Contractor to comply with the instructions of the Provincial Manager as stated in the aforesaid notices will make Contractor liable for payment of penalties to be imposed.

To facilitate issuance of Notices, all winning Contractors shall provide/submit to the concerned Provincial Managers their official contact persons/numbers like fax numbers, landline and cellphone numbers.

## **XVII. ARBITRATION**

Any and all disputes arising from the implementation of a contract covered by the Act and its IIR-A shall be submitted to arbitration in the Philippines according to the provisions of RA No. 876, otherwise known as "Arbitration Law". Provided, however, that disputes that are within the competence of the Construction Industry Arbitrary Commission to resolve shall be referred thereto. The process of arbitration shall be incorporated as a provision in the contract that will be executed pursuant to the provisions of the Act and its IRR-A. Provided further that by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.

## **XVIII. DURATION CLAUSE**

The Contract becomes effective on the date of signing by the parties and shall remain in full force and effect until the end of the year or until the total awarded volume shall have been milled and accounted for, whichever comes first.

## **XIX. ENTIRETY CLAUSE**

No alterations, amendments, and/or modifications to the Contract shall be considered valid unless agreed upon by both parties contained in a duly notarized document.

## **XX. VENUE OF ACTION**

Legal actions arising out of or relating to this Contract shall be filed with any of the competent courts in San Fernando City, La Union.

**PREPARED BY: TECHNICAL WORKING GROUP**

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Supvg GOO (Acting ROO- Chairperson)

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Officer-in-Charge-Member

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