

SUPPLIER'S CONTRACT

For the "SUPPLY OF LABOR AND MATERIALS FOR THE FABRICATION OF ONE (1) UNIT SUGARCANE CUTTER"

KNOW ALL MEN BY THESE PRESENTS:

This SUPPLIER'S CONTRACT made and executed by and between:

METALS INDUSTRY RESEARCH AND DEVELOPMENT CENTER, an attached agency under the DEPARTMENT OF SCIENCE AND TECHNOLOGY, with office address at Gen. Santos Avenue, Bicutan, Taguig, represented herein by its Executive Director, **Engr. ROBERT O. DIZON**, hereinafter referred to as "MIRDC";

--- and ---

EA RAÑOLA MACHINE SHOP, INC., a sole proprietor duly existing and organized under and by virtue of the Republic of the Philippines, with office address at 7-A F, Balagtas street Corner, JP Rizal Extension, west Rembo, Makati City, represented herein by its General Manager, **Mr. EDILBERTO A. RAÑOLA**, hereinafter referred to as **EA RAÑOLA MACHINE SHOP, INC.**;

WITNESSETH:

WHEREAS, MIRDC is undertaking the procurement for the "SUPPLY OF LABOR AND MATERIALS FOR THE FABRICATION OF ONE (1) UNIT SUGARCANE CUTTER under the project DESIGN AND DEVELOPMENT OF SUGARCANE HARVESTING EQUIPMENT FOR SMALL SUGARCANE FARMS", hereinafter referred to as the PROJECT;

WHEREAS, MIRDC conducted a negotiated bidding on April 01, 2016 in accordance with the Government Procurement Reform Act (R.A. 9184) and, after evaluating all the Bid proposals submitted, determined that herein **EA RAÑOLA MACHINE SHOP, INC.** was the **Single Calculated & Responsive Bidder**;

WHEREAS, a Notice of Award was issued to the who has accepted to supply the labor and materials for the PROJECT under set terms and conditions and warrants itself to be competent and fully equipped with the necessary materials, manpower and equipment necessary for undertaking the PROJECT;

NOW, THEREFORE, for and in consideration of the foregoing premises the PARTIES have agreed as follows:

ARTICLE I
SCOPE OF CONTRACT

1.1 The Goods and Related Services to be provided shall be as specified in the Schedule of Requirements/Terms of Reference.

1.2 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.

ARTICLE II
CONTRACT DOCUMENTS

2.1 The following documents are incorporated hereto and made an integral part of this Agreement, to wit:

- (a) Bid Documents, including the General and Special Conditions of Contract, if any;
- (b) Specifications/Terms of Reference;
- (c) Invitation to Apply for Eligibility and to Bid;
- (d) Instructions to Bidders;
- (e) Bid Data Sheet;
- (f) Addenda and/or Supplemental/Bid Bulletins, if any;
- (g) Bid form, including all the documents/statements contained in the Bidder's bidding envelopes, as annexes;
- (h) Eligibility requirements, documents and/or statements;
- (i) Performance Security;
- (j) Credit line issued by a licensed bank, if any;
- (k) Notice of Award of Contract and the Bidder's *conforme* thereto;
- (l) Other contract documents that may be required by existing laws and/or by MIRDC.

2.2 In case of doubt or conflict between and among any items or provisions of the Contract Documents, and/or between and among any of the Contract Documents and this Agreement, **EA RAÑOLA MACHINE SHOP, INC.** shall refer the same in writing to **MIRDC** for clarification and guidance. The clarification or determination made by **MIRDC** in writing shall be binding and conclusive upon the Parties.

2.3 **EA RAÑOLA MACHINE SHOP, INC.** shall not make any changes or alteration in the drawings, designs, or specifications in the **PROJECT** without prior written approval by **MIRDC**.

2.4 The parties may, in writing, agree to any revision, alteration, or addition to the terms and conditions of this Agreement or the Contract Documents.

ARTICLE III
CONTRACT PRICE

3.1 For and in consideration of the performance and accomplishment of the **PROJECT, MIRDC** shall pay **EA RAÑOLA MACHINE SHOP, INC.** the total amount of **Nine Hundred Thousand Pesos and 00/100 (PhP900,000.00)** only subject to pertinent laws on government contracts and auditing procedures.

3.2 The Contract Price is inclusive of all taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

3.3 The Contract Price shall be fixed and not subject to variation or price escalation on any account except under conditions specified by law. Any adjustments in Contract Price shall be done in accordance with the guidelines provided by law.

3.4 Any amount payable to **EA RAÑOLA MACHINE SHOP, INC.** may be compensated against liquidated damages payable to **MIRDC** under this Agreement.

ARTICLE IV
PAYMENTS and WARRANTY

4.1 **MIRDC** shall, upon a written request of **EA RAÑOLA MACHINE SHOP, INC.** which shall be submitted as a contract document, make an advance payment to **EA RAÑOLA MACHINE SHOP, INC.** in an amount not exceeding fifteen percent (15%) of the total contract price, to be made in lump sum or, at the most, two installments according to a schedule specified in the Instruction to Bidders and other relevant Tender Documents.

4.2 The advance payment shall be made only upon the submission to and acceptance by **MIRDC** of an irrevocable letter of credit or from a bank guarantee issued by a universal or commercial Bank. The irrevocable letter of credit or bank guarantee shall remain valid until the goods are delivered.

4.3 The advance payment shall be repaid by **EA RAÑOLA MACHINE SHOP, INC.** by deducting fifteen percent (15%) from his periodic progress payments or in an amount equal to the percentage of the total contract price used for the advance payment until the amount of advance payment is fully liquidated.

4.4 **MIRDC** shall pay **EA RAÑOLA MACHINE SHOP, INC.** progress payments based on billings or invoice describing, as appropriate, the actual works accomplished as verified and certified by the Executive Director of **MIRDC** or his representative.

4.5 All progress payments shall be subject to a retention fee of ten percent (10%). Such retention shall be based on the total amount due to **EA RAÑOLA MACHINE SHOP, INC.** prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of work, as determined by **MIRDC**, are completed. If, after fifty

percent (50%) completion, the work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall again be imposed using the rate specified therefore.

4.6 The total "retention money" shall be due for release after the lapse of the warranty period (minimum of 3 months for expendable goods or until consumption; minimum of 1 year for non-expendable goods); provided, however, that the Goods delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.

4.7 EA RAÑOLA MACHINE SHOP, INC. warrants that the materials used for the PROJECT 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 MIRDC provides otherwise.

4.8 EA RAÑOLA MACHINE SHOP, INC. further warrants that the Goods shall have no defect, arising from materials or workmanship or from any act or omission of that may develop under normal use of the supplied Goods in the conditions currently prevailing.

ARTICLE V

TIME OF COMPLETION AND LIQUIDATED DAMAGES FOR DELAY

5.1 EA RAÑOLA MACHINE SHOP, INC. shall perform and complete the PROJECT to the satisfaction of MIRDC within SIXTY (60) CALENDAR DAYS reckoned from the date of receipt of the Notice to Proceed.

5.2 Time being of the essence of the PROJECT, delay in the completion of the PROJECT may be excusable only if the same is due to *force majeure*, additional work approved by MIRDC, or for any other special circumstances as may be determined by MIRDC.

5.3 *Force majeure* shall be interpreted to mean an event that the Contractor could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions except for typhoons; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by EA RAÑOLA MACHINE SHOP, INC.

5.4 If a *force majeure* situation arises, EA RAÑOLA MACHINE SHOP, INC. shall promptly notify MIRDC in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of EA RAÑOLA MACHINE SHOP, INC.'s notice, MIRDC shall evaluate the situation and may extend EA RAÑOLA MACHINE SHOP, INC.'s time for performance, in which case the extension shall be ratified by the Parties by amending this Contract.

5.5 If EA RAÑOLA MACHINE SHOP, INC. fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified under Section 5.1 of this Contract inclusive of duly granted time extensions, if any, MIRDC 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 delayed goods scheduled for delivery for every day of delay until such goods are finally delivered and accepted by **MIRDC**.

5.6 This Contract is automatically rescinded once the total sum of liquidated damages exceed ten percent (10%) of the total contract price, without prejudice to imposition of appropriate sanctions over and above the liquidated damages.

ARTICLE VI

PERFORMANCE SECURITY

6.1 The Performance Security shall be posted in favor of **MIRDC** in the form and amount prescribed under the Contract Documents or applicable laws, rules and regulations. It shall remain valid until the issuance of the Certificate of Final Acceptance and may be released after the issuance of the Certificate of Final Acceptance subject to conditions mandated by law.

6.2 The Performance Security shall be forfeited in the event it is established that **EA RAÑOLA MACHINE SHOP, INC.** is in default in any of its obligations under this Agreement.

6.3 In case of a reduction of the contract value, **MIRDC** 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.

ARTICLE VII

INSPECTION AND TESTS

7.1 **MIRDC** 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 **MIRDC**.

7.2 **MIRDC** may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. **EA RAÑOLA MACHINE SHOP, INC.** shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to **MIRDC**, and shall repeat the test and/or inspection, at no cost to **MIRDC**.

7.3 **EA RAÑOLA MACHINE SHOP, INC.** agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by **MIRDC** or its representative, shall release **EA RAÑOLA MACHINE SHOP, INC.** from any warranties or other obligations under this Contract.

ARTICLE VIII

ASSIGNMENTS AND SUB-CONTRACTING

8.1 EA RAÑOLA MACHINE SHOP, INC. cannot assign, transfer, pledge, sub-contract, or otherwise dispose of this Agreement or any part or interest herein without the prior written approval of MIRDC. Any such approval shall not relieve EA RAÑOLA MACHINE SHOP, INC. from any liability or obligation under the law or this Agreement, nor shall it create any contractual relation between the sub-contractor, pledgee, transferee, or assignee, and MIRDC.

8.2 EA RAÑOLA MACHINE SHOP, INC. will be responsible for the acts, defaults, and negligence of any sub-contractor, its agents, servants or workmen as fully as if these were EA RAÑOLA MACHINE SHOP, INC.'s own acts, defaults, or negligence, or those of its agents, servants or workmen.

8.3 In case of sub-contracting, EA RAÑOLA MACHINE SHOP, INC. shall submit, before Final Acceptance, a sworn statement executed by the sub-contractor attesting to the fact that the latter has been fully paid by EA RAÑOLA MACHINE SHOP, INC. for the materials furnished and the labor performed under the sub-contract.

ARTICLE IX

OBLIGATIONS/RESPONSIBILITIES OF EA RAÑOLA MACHINE SHOP, INC.

9.1 EA RAÑOLA MACHINE SHOP, INC. shall comply with all laws, rules and regulations promulgated by the government of the Republic of the Philippines, including those on labor, environment, safety and sanitation and other pertinent laws. EA RAÑOLA MACHINE SHOP, INC. shall be solely liable for any violation of the same.

9.2 EA RAÑOLA MACHINE SHOP, INC. shall, with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to MIRDC. If EA RAÑOLA MACHINE SHOP, INC., having been notified, fails to remedy the defect(s) within a reasonable period, MIRDC may proceed to take such remedial action as may be necessary, at EA RAÑOLA MACHINE SHOP, INC.'s risk and expense and without prejudice to any other rights which MIRDC may have against EA RAÑOLA MACHINE SHOP, INC. under this Contract and applicable law.

ARTICLE X

SETTLEMENT OF DISPUTES

10.1. Any dispute or difference arising between the Parties hereto in connection with or arising out of this Contract shall be resolve amicably through mutual consultation. Unresolved issues remaining after thirty (30) days shall be settled in accordance with

Republic Act 9285 ("R.A. 9285"), otherwise known as the "Alternative Dispute Resolution Act of 2004."

10.2. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and MIRDC shall pay EA RAÑOLA MACHINE SHOP, INC. any monies due them.

ARTICLE XI

LIABILITY OF EA RAÑOLA MACHINE SHOP, INC.

11.1. Subject to additional provisions, if any, set forth in the Contract Documents, EA RAÑOLA MACHINE SHOP, INC.'s liability under this Agreement shall be provided by the laws of the Republic of the Philippines.

ARTICLE XII

CONFIDENTIAL INFORMATION

12.1 EA RAÑOLA MACHINE SHOP, INC. shall not, except for purposes of performing the obligations in this Contract, without MIRDC'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 MIRDC. Any such disclosure shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

ARTICLE XIII

CONTRACT EFFECTIVITY

13.1 Contract effectivity date shall be provided in the Notice to Proceed.

ARTICLE XV

TERMINATION OF CONTRACT

14.1 **MIRDC** shall terminate this Contract on grounds stated under Republic Act No. 9184, otherwise known as the General Procurement Law, and its implementing rules and regulations:

IN WITNESS whereof the parties thereto have caused this Agreement to be executed this _____ at Bicutan, Taguig City.

**METALS INDUSTRY RESEARCH
AND DEVELOPMENT CENTER**

EA RAÑOLA MACHINE SHOP, INC.


By:

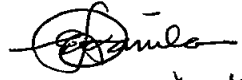

Engr. ROBERT O. DIZON
Executive Director

By:



Mr. EDILBERTO A. RAÑOLA
General Manager

SIGNED IN THE PRESENCE OF:


Engr. EMERITO V. BANAL
Project Leader


Ms. Edna A. Rañola

CERTIFIED FUNDS AVAILABLE:


JOHNNY G. QUINGCO
Accountant IV

ACKNOWLEDGMENT

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

Handwritten: t. B. B.
MAY 16 2016 Before me, a Notary Public for and in the CITY OF MAKATI this
2016, personally appeared:

NAME	I.D. NO.	DATE/PLACE ISSUED
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Engr. ROBERT O. DIZON	2016002	DOST, Bicutan, Taguig City January 08, 2016
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Mr. EDILBERTO A. RAÑOLA		
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Handwritten: L. M. L.

all known to me to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their free act and deed as well as of the principal they represent.

This instrument refers to SUPPLIER's contract consisting of nine (9) pages, including this page in which the Acknowledgment is written, signed by the parties and their witnesses on each and every page and sealed with my notarial seal.

WITNESS MY HAND AND SEAL on the date and place above written.

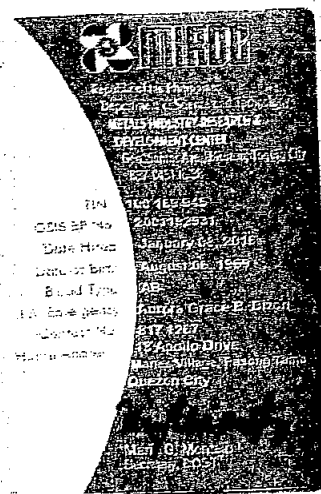
Doc No. 124;
Page No. 20;
Page No. 237;
Series of 2016.

ATTY. VIRGILIO R. BATALLA
NOTARY PUBLIC FOR MAKATI CITY
APPOINTMENT NO. M32
UNTIL DECEMBER 31, 2016
ROLL OF ATTY. NO. 48348
MCLE COMPLIANCE NO. IV-0016833/4-10-2013
IBP O.R No. 706762- LIFETIME MEMBER JAN. 29, 2007
PTR No. 532-35-05- JAN 04, 2016 MAKATI CITY
EXECUTIVE BLDG. CENTER
MAKATI AVE., COR., JUPITER



ROBERT O. DIZON

3 **11111** ID. No. 2855002



NOTICE OF AWARD

May 02, 2016

Mr. EDILBERTO A. RAÑOLA
General Manager
EA Rañola Machine Shop, Inc.
7-A F. Balagtas Street Corner
J.P. Rizal Extension, West Rembo
Makati City

Dear Mr. Rañola:


You are advised that the Purchase Order for the procurement for the **"Supply of Labor and Materials for the Fabrication of One (1) Unit Sugarcane Cutter"** of the Metals Industry and Development Center has been awarded to your firm in the amount of **Nine Hundred Thousand Pesos and 00/100 (Php900,000.00)** only, subject to the approval of the concerned authorities.

You are therefore requested to accept the award in writing within ten (10) calendar days from receipt hereof and post a performance security according to the following schedule:

- a. Cash, Manager's check or Cashier's check – 5% of the total contract price;
- b. Bank Guarantee/ Draft/ Irrevocable Letter of Credit – 5% of the total contract price;
- c. Surety Bond, callable on demand, valid for one year, issued by the Office of the Insurance Commissioner, or any combination thereof – 30% of the total contract price.

Thank you.

Very truly yours,


ROBERT O. DIZON
Executive Director
JOSE F. BABIL JR.

4-3-16

NOTICE TO PROCEED

May 13, 2016

Mr. EDILBERTO A. RAÑOLA
General Manager
EA Rañola Machine Shop, Inc.
7-A F. Balagtas St. Corner
J.P. Rizal Extension, West Rembo
Makati City

Dear Mr. Rañola:

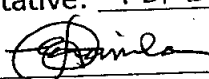
The attached Contract Agreement having been approved, notice is hereby given to **EA RAÑOLA MACHINE SHOP, INC.**, that work may proceed on the project for the **"Supply of Labor and Materials for the Fabrication of One (1) Unit Sugarcane Cutter"**, effective after Three (3) calendar days from receipt of this Notice to Proceed. Upon receipt of this notice, you are responsible for performing the services under the terms and conditions of the Agreement and in accordance with the Implementation Schedule.

Please acknowledge receipt and acceptance of this notice by signing both copies in the space provided below. Keep one copy and return the other to Metals Industry Research and Development Center.

Very truly yours,



ROBERT O. DIZON
Executive Director

I acknowledge receipt of this Notice on May 17, 2016 (date of receipt)Name of Bidder's Representative: Edna A. RañolaAuthorized Signature: 

The Head of the Procuring Entity or his duly authorized representative shall issue the Notice to Proceed within seven (7) calendar days from the date of the approval of the contract.

BAC RESOLUTION DECLARING A NEGOTIATED BIDDING

RESOLUTION NO. 2016 010

Project: "Supply of Labor and Materials for the Fabrication of One (1) Unit Sugarcane Cutter"

Approved Budget for the Contract (ABC): Php900,000.00

Opening of Bids: April 01, 2016 at 09:00 a.m.

WHEREAS, Republic Act No. 9184 provides for the modernization, standardization and regulation of the procurement activities of the government.

WHEREAS, with the prior approval of the Executive Director of MIRDC, as the Head of the procuring entity, the BAC may, whenever justified by the conditions provided for in R.A. 9184, resort to any of the alternative methods of procurement provided for in the Implementing Rules and Regulations of R.A. No. 9184 (IRR).

WHEREAS, the Head of the Procuring Entity has approved "NEGOTIATED PROCUREMENT" as the particular alternative method of procurement for "Supply of Labor and Materials for the Fabrication of One(1) Unit Sugarcane Cutter" the subject of this resolution, as per recommendation of the BIDS AND AWARDS COMMITTEE.

WHEREAS, Sec 53(b) of the IRR provides that "NEGOTIATED PROCUREMENT" shall be allowed *where there has been failure of bidding for the second time.*

WHEREAS, the submission and opening of bids was held on April 01, 2016 at 09:00 a.m. at the MIRDC Titanium Conference Room, 2nd Floor, PD-Building, MIRDC Compound, Gen. Santos Ave., Bicutan, Taguig City, only EA Rañola Machine Shop, Inc. submitted their bid proposal as a lone bidder;

WHEREAS, the BIDS AND AWARDS COMMITTEE had negotiated with the Technical and Financial Proposal with the bonafide supplier of known qualifications, that is, EA RAÑOLA MACHINE SHOP, INC.:

WHEREAS, after careful evaluation of the Technical and Financial Proposal, the BIDS AND AWARDS COMMITTEE found out that EA Rañola Machine Shop, Inc. submitted the best offer which meets MIRDC's requirements;

RESOLVED, as it is hereby resolved, pursuant to Section 53 of R.A. 9184, to award the bid to EA Rañola Machine Shop, Inc.

RESOLVED FURTHER, to recommend approval of the award.

RESOLVED, at Taguig City this _____, 2016.

Chennear

Ms. AUREA T. MOTAS
BAC Chairman

[Signature]
Ms. MERCEDITA G. ABUTAL
Vice Chairperson

[Signature]
GINA A. CATALAN
BAC Member

[Signature]
Atty. TRIXIE HAZEL C. VELUZ
BAC Member

[Signature]
ISIDRO D. MILLO
BAC Member

[Signature]
RONIE S. ALAMON
TWG Member

[Signature]
RAYMOND S. DE OCAMPO
TWG Member

[Signature]
PEPITO M. SORANO
TWG Member

Approved (✓) / Disapproved ()

[Signature]
ROBERT O. DIZON
Executive Director

Approved on _____