



Republic of the Philippines  
Province of Bohol  
**MUNICIPALITY OF TRINIDAD**

**PUBLIC-PRIVATE PARTNERSHIP PRE-QUALIFICATION, BIDS AND AWARDS COMMITTEE**

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**INVITATION TO PRE-QUALIFY AND BID  
FOR THE MUNICIPALITY OF TRINIDAD, BOHOL  
BULK WATER SUPPLY PROJECT**

The Local Government Unit of Trinidad, Bohol, invites interested parties to apply for pre-qualification and bid for the design, financing, construction, development, operation and maintenance of facilities for the bulk water supply.

The Project will be awarded through competitive public bidding, as a Public-Private Partnership (PPP) project, using performance / output-based scheme in accordance with Republic Act No. 7718 (Philippine BOT Law), its Implementing Rules and Regulations (IRR), and other applicable laws, through the Build-Own-and-Operate (BOO) contractual arrangement.

The bidding will follow a simultaneous or single-stage process as indicated in Rule 5, Sec. 5.7, R.A No. 7718.

Interested Parties may obtain Invitation Documents, consisting of: (a) Invitation to Pre-Qualify and Bid, (b) Instructions to Prospective Bidders, (c) Draft Contract from the original Project Proponent, and (d) Bid Forms from the Prequalification, Bids and Awards Committee (PBAC) Secretariat Office. Said documents will be available from March 6, 2023 to April 14, 2023 at the PBAC Secretariat Office, located at 2<sup>nd</sup> Floor, Trinidad Municipal Hall, Poblacion, Trinidad, Bohol. The Local Government of Trinidad, Bohol may release updates, clarifications, amendments, or additions to any or all of the bidding documents.

Interested Parties must submit their applications for pre-qualification, together with duly accomplished Pre-Qualification and Bid Documents in the required number of copies and format, to the PBAC Chairman, through the PBAC Secretariat, at the above-stated address not later than 12:00 noon, Philippine Standard Time, on May 19, 2023. Late submissions shall not be accepted.

The Local Government Unit of Trinidad, Bohol reserves the right to accept or reject any bid, to annul the bidding process, and to reject all bids at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.

**Sgd. ELENITA L. SAWAN**  
General Services Officer  
PBAC Chairman

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CLAUSE NO. AND TITLE	DETAILS
1. TERM AND PROJECT MILESTONES	<p><b>1.1 CONTRACT DURATION &amp; EFFECTIVITY</b>  This Contract shall commence on the date of its execution. It shall remain in full force and effect for a period of Twenty-Five (25) years from Day One of Delivery or actual delivery, whichever comes first. This contract shall be re-negotiated every 5 years as to the contracted price per cubic meter and as to daily contracted volume.</p> <p><b>1.2 "DAY-ONE" OF DELIVERY</b>  Day One of delivery shall be ten (10) months from receipt of the Notice to Proceed (NTP). The BPWS may, however, be allowed to make partial delivery before Day One of delivery, subject to LGU Trinidad's prior written approval. In case allowed, penalties for short delivery may not apply. Provided, that any party may request for an extension of Day One of delivery based on justifiable cause or reason within thirty (30) calendar days before the date of delivery. Any delay on the date of delivery for justifiable cause or reason shall in no way extend the term of this Agreement.</p>
2. SOURCE OF WATER	<p><b>2.1. Source of Water.</b> The BPWS shall only source SURFACE WATER and strictly NO UNDERGROUND WATER SOURCE shall be accepted. The BPWS shall source water from the Ipil River and from other sources of surface water wherein the BPWS has an existing water permit or conditional water permit issued by the NWRB as back-up water source. On this regard, the BPWS has three (3) existing water permit or conditional permit to extract surface water all over the Province of Bohol as issued by the NWRB.</p>
3. SUSTAINABILITY OF WATER SOURCE AND WATER TREATMENT FACILITY	<p><b>3.1</b>The BPWS shall ensure that the source shall be sustainable and one hundred percent (100%) reliable at any time all throughout the duration of the contract. As proof that the water source can sustain the supply of water for this contract, the BPWS shall submit the following documents as part of its eligibility requirements:</p> <ul style="list-style-type: none"> <li>a. Comprehensive Water Resource Engineering Study</li> <li>b. Full Hydrology Study and Hydrologic Model that supports the sustainability of the 5,000 cubic meters per day for Twenty-Five (25) years</li> <li>c. Detailed Engineering Design of all facilities should develop under clause 3.</li> <li>d. Track record and experience in the following:  (1) design and construction of a Water Treatment Plant; the operation and maintenance of a water treatment plant capable of treating a maximum turbidity level of 2,000 ntu; and    (2) an existing treatment plant yield of 5000 cu.m. per day or 50% of the contracted volume.</li> </ul>



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<p>4. PERMITS, LICENSES, AND CLEARANCES</p>	<p><b>4.1 PERMIT FROM NATIONAL WATER RESOURCES BOARD (NWRB)</b></p> <p>4.1.1 The BPWS shall submit a National Water Resources Board (NWRB) water right/permit or at least an LGU - endorsed application within six (6) months before Day One (1) of Delivery. The water right/permit must be issued under of the RICHLI CORP the Bulk Potable Water Supplier. If the water right/permit is under the BPWS's name, it must be for "Municipality of Trinidad BULK POTABLE WATER SUPPLY PURPOSE ONLY".</p> <p>4.1.2 The NWRB permit applications should indicate that the extraction rate is limited only to the volume required for this contract minimum of 5,000 cu.m. per day.</p> <p>4.1.3 All other permits and licenses and/or clearances required by the local government unit, agency, or office for the operation of the water source and land rights shall be the sole responsibility of the BPWS.</p> <p><b>4.2 LGU SUPPORT ON THE PROPOSED PROJECT</b></p> <p>4.2.1 LGU Trinidad shall render assistance to the BPWS in the application of these permits, licenses and/or clearances.</p> <p>4.2.2 The BPWS shall submit the required LGU Clearance together with the other eligibility documents.</p> <p>4.2.3 In the event that the LGU clearance granted to the BPWS is only for a period shorter than the term of this contract, the BPWS shall obtain or secure the extension to cover the remaining period of this contract at least one (1) year before the expiration of the issued clearance. If the BPWS fails to secure the extension of the LGU clearance for whatever reasons, the contract shall be mutually terminated.</p> <p>4.2.4 Cease and desist order issued by the court or any proper authority resulting in an interruption in the operation due to the BPWS's non-compliance with permits and/or licenses shall make the BPWS liable for penalties under Clause 18, "Damages and Penalties" hereof, and shall further give LGU the option to rescind this Contract.</p> <p><b>4.3 EXCAVATION PERMITS, RIGHT OF WAY, AND OTHER CLEARANCES</b></p> <p>4.3.1 The BPWS shall comply with the excavation and all other clearances in order to comply with the provisions of this agreement'. Acquiring the Road Right of Way (RROW) shall be within the responsibility of the LGU Trinidad.</p> <p>4.3.2 Failure to secure the necessary permits and clearances from other LGU/government agencies shall be a ground for the termination of the agreement without prejudice</p>
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	<p>to the penalty to be imposed under Clause 18, "Damages and Penalties"</p> <p><b>4.4 ENVIRONMENTAL COMPLIANCE CERTIFICATE (ECC) OR ANY EQUIVALENT PERMIT</b>  With the assistance of the LGU-Trinidad, the BPWS shall secure an Environmental Compliance Certificate (ECC) or any equivalent permit/clearance/certificate from the Department of Environment and Natural Resources (DENR) prior to Day One of the Delivery.</p> <p><b>4.5</b> Whenever applicable, the BPWS shall submit a clearance or authorization to attend and enter into a government the procurement contract for this project from all its business consortia or partners.</p>
<b>5. POST-QUALIFICATION REQUIREMENT</b>	<p>Prior to award, LGU, as part of the post-qualifications, shall include a site inspection of the proposed site based on the Detailed Engineering Design that the BPWS submitted. The BPWS shall provide proof of existing and operational facilities, equipment, and appurtenances to efficiently operate the plant. (i.e. LGU clearance, permits, and the like)</p>
<b>6. QUANTITY</b>	<p>During the term of this agreement, the BPWS shall supply and deliver to LGU potable Bulk Water in conformity and compliance with the prevailing Philippine National Standards for Drinking Water, DENR, DOH and in accordance with the following requirements:</p> <p><b>6.1 Daily Contracted Volume</b>  The BPWS shall deliver and supply at the designated injection point the volume of potable bulk water of at least 1 Million liters per day (1 MLD). Any excess volume shall be paid based on the contract price provided that the volume is absorbed by the LGU.</p> <p>Penalty due to under-delivery shall apply if the actual billed volume fell short of the minimum delivery volume.</p> <p><b>6.2 Hourly Flow Rate</b>  BPWS shall exert all efforts to a uniform flow rate of 62.5 cu.m/hour. However, any excess volume brought about by the excess flow rate provided that it is absorbed by LGU shall be paid. LGU shall have control over the excess volume absorbed.</p> <p><b>6.3 Pressure Requirement</b>  Potable bulk water to be supplied at the injection point shall be able to overcome the pressure equivalent to the overflow elevation of the reservoir located at an elevation of about 185 meters above sea level at any given time.</p>



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7. PERIOD AND DELIVERY POINTS	<p>7.1 The obligation of the BPWS to supply and deliver potable bulk water to LGU locations of the identified Water Reservoirs remain in full force. This will include the supply of two (2) units steel tanks with a capacity of 100 m3 each and 5 kilometer distribution pipeline provided by the BPWS.</p>
8. METERING, and MEASUREMENT	<p>7.2 The potable bulk water shall be delivered to LGU's Reservoirs, and to any Drop Off Point(s) which may be agreed upon by both parties along the BPWS pipeline.</p> <p>The BPWS may, however, be allowed to make partial delivery before the scheduled Day One of Delivery, subject to LGU's prior written approval. If allowed, penalties for short delivery shall not apply.</p> <p>8.1 BPWS shall install full-bore electromagnetic bulk water meters with accessories at the injection point and drop-off point specification. The basis to measure the actual volume of potable bulk water delivered to LGU will be the aggregate the volume of the injection point and drop-off point(s) ("Billing Meters").</p> <p>8.2 The readings on the Billing Meters shall be jointly conducted by both parties within the first week of the succeeding month.</p> <p>8.3 Anytime during the commissioning period but prior to Day 1 of the commercial operations, the billing meters are to be installed shall be represented by both parties for inspection.</p> <p>All the billing meters and spare meters shall be subjected to a testing laboratory agreed upon by both parties. Onsite Installation of meters shall be represented by both parties. After meter installation, a baseline variance between the installed parallel meters (and other possible combination meters) shall be established using the formula:</p> $BV_{meter} = \frac{HR - LR}{HR} \times 100\%$ <p>Where:</p> <p><b><i>BV<sub>meter</sub></i> = BaselineVariance</b>  <b><i>HR</i> = Highestregisteredreadingofthetwometers</b>  <b><i>LR</i> = Lowestregisteredreadingofthetwometers</b></p> <p>8.4 During the Operations period, Successive daily variance meter readings between the parallel meters shall be acceptable if it falls within <math>\pm 5\%</math> of the baseline variance. The baseline variance shall remain to be the reference unless any of the installed meters have been replaced by a different meter. If a meter has been replaced, a new baseline variance shall be established using the formula above.</p> <p>8.5 If <math>Var_{actual} &gt; \pm 5\% \cdot BV_{meter}</math>, then any of the two parties shall notify the other party for a scheduled joint inspection. BWS shall investigate which of the two meters may have been inaccurate through historical readings and will be subjected to a</p>

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	<p>test bench by an agreed testing facility. The meter when pulled out for testing shall be replaced by a spare meter to be witnessed by both parties. If both of the 2 meters were found to be defective, then the volume to be billed shall be the average consumption of the immediately preceding three (3) months.</p> <p>8.6 The BPWS agrees to annually test the billing meters and provide the LGU with a copy of the test results. BPWS shall ensure the meter is calibrated whereas the annual meter test shall require the presence of both parties to witness the dismantling, sealing of the meter, and testing. In the event that the billing water meter failed the test bench, BPWS shall bear the replacement of the billing water meter.</p> <p>8.7 Either party may request to conduct a field counter-checking on the accuracy of the billing meters at any given time. A party may request the other party, within thirty days (30) from receipt of billing and at the cost of the requesting Party, the conduct of additional or special accuracy test on the billing meter by a government-accredited water meter testing laboratory to verify the accuracy of the billing meter and to ensure that the same meets the accuracy limit. If one(1) flowmeter is confirmed by the laboratory to be defective, the water delivered shall be measured on the basis of the non-defective water meter reading for the period. If both flowmeters are confirmed to be defective, the water delivered shall be based on the average of the immediately preceding three (3) months.</p>
<p>9. QUALITY</p>	<p><b>9.1 POTABLE WATER SPECIFICATIONS and PROTOCOL</b></p> <p>9.1.1 The potable bulk water to be supplied and delivered by the BPWS to the LGU shall at all times in accordance and compliant with the requirements under DOH Administrative Order 2017-010 Philippine National Standards for Drinking Water of 2017 ("PNSDW 2017") (Potable Bulk Water Quality Specifications and DOH Water Quality Guidelines).</p> <p>9.1.2 BPWS shall subject its potable bulk water to water quality testing by THIRD PARTY. Routine Sampling and testing shall be in accordance and compliance with the water quality guidelines based on the DENR and DOH Standards. Sampling points shall be located at drop-off point(s) and injection points as indicated by the representative of both parties.</p> <p>9.1.3 BPWS shall allow LGU access to the BPWS Facilities for the purpose of taking samples of the potable bulk water for testing at the THIRD-PARTY Laboratory is subject to the facility safety and access policies. A BPWS representative shall be required during the sampling activity of LGU. BPWS shall bear the cost of the laboratory tests of the potable bulk water in accordance with the frequency set.</p> <p>9.1.4 Specific Protocols on certain parameters are defined under the water quality guidelines specified in the DENR and DOH. In cases of dispute, the results of the water quality tests conducted by the DOH ACCREDITED LABORATORIES shall prevail and settles the issue with</p>



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	<p>finality.</p> <p>9.1.5 During cases of substandard water, acceptance of potable bulk, water delivery shall be done once the the certain parameter has passed DOH ACCREDITED LABORATORIES Testing.</p> <p>9.16 During cases where LGU test results differ from DOH ACCREDITED LABORATORIES resulting in the refusal of potable bulk water delivery, LGU shall pay the equivalent minimum contracted volume throughout the duration of the water delivery refusal.</p> <p><b>9.2 RAW WATER BENCHMARK</b></p> <p>9.2.1 The BPWS shall implement a program of sampling and testing of the raw water as agreed with LGU not later than the Operations Start Date.</p> <p>9.2.2 The BPWS shall take samples starting Operations Date for testing the raw water at the specified frequency. At the end of each year, a summary of the raw water quality testing results and analysis shall be provided by BPWS on which parameters BPWS considers to be critical for the continued ability of the Potable Bulk Water Supply Facility to treat raw water into potable bulk water.</p> <p>9.2.3 The BPWS shall allow LGU access to the Raw Water Sampling Point for the purpose of taking samples of the Raw Water for testing at the LGU IDENTIFIED Water Laboratory subject to compliance with the Facilities Safety policy and access. A BPWS representative shall be required during the LGU sampling activity.</p> <p>9.2.4 If a raw water quality parameter does not meet any of the parameters as established under the Raw Water Quality Design Limit outside of force majeure such that the Bulk Water Facility will not be able to meet the potable water quality specifications, the BPWS must notify LGU in writing that the discussions for the Required Variation be triggered.</p> <p><b>9.3 OPERATIONS START DATE</b></p> <p>9.3.1 Prior to delivery, BPWS should be able to pass the LGU laboratory test on the following parameters:</p> <p><b>Mandatory Parameters</b></p> <ul style="list-style-type: none"> <li>• Total Coliform</li> <li>• Thermotolerant Coliform (E.Coli)</li> <li>• Heterotrophic Plate Count (HPC)</li> <li>• Turbidity</li> <li>• Disinfection of Residual Chlorine</li> <li>• Total Dissolved Solids</li> <li>• pH</li> </ul>
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	<ul style="list-style-type: none"> <li>• Color, Apparent</li> <li>• Arsenic</li> <li>• Cadmium</li> <li>• Lead</li> <li>• Nitrate</li> </ul> <p><b>Secondary Drinking Water Quality Parameters</b></p> <ul style="list-style-type: none"> <li>• Chloride</li> <li>• Total Hardness</li> <li>• Sodium</li> </ul> <p>9.3.2 The allowable limits, sampling locations, testing methodology and protocols of the parameters specified under Clause 9.3.1 shall be referenced to Clause 9.1.</p> <p>9.3.3 When the parameters listed under 9.3.1 have been complied with, LGU shall issue a Certificate of Acceptance signifying the Start of Operations. The Operations Start Date shall occur on the date of issuance of the Certificate of Acceptance.</p> <p>On the first two (2) weeks starting the Operations Start Date, the penalty due to under-delivery shall be suspended to allow LGU to make the necessary adjustments to their distribution network. Both parties shall ensure that delivery of the potable bulk water to the injection and drop-off points shall be made available 100% of the time within each calendar year.</p> <p>On a monthly basis, BPWS shall keep a record of the cumulative actual outages of both parties from the start of each year</p> <p>If the BPWS's cumulative actual outage is below the AAO, any delivery resulting from the outages, shall not be penalized subject to minimum contracted volume. Otherwise, any delivery resulting from maintenance beyond AAO shall be subject to penalty due to under-delivery.</p> <p>In the same manner, LGU shall only pay the actual volume delivered if the actual outage is below AAO, otherwise, LGU shall pay the minimum contracted volume.</p> <p>Parties may revise upon agreement of both parties the Annual Allowable Outage duration due to justifiable reasons.</p>
10. PRODUCTION AVAILABILITY, INTERRUPTION DUE TO PLANNED AND UNPLANNED DOWNTIME	<p><b>10.1 PLANNED OUTAGE, MAINTENANCE PROGRAM, AND SCHEDULE</b></p> <p>10.1.1 Each party shall submit the Annual Schedule of Planned Maintenance to other parties, not later than sixty (60) calendar days prior to the start of each calendar year for the purpose of obtaining the consent of the other party. The BPWS shall</p>



<p>11. PROHIBITION TO SUPPLY WATER IN THE AREA SUPPLIED BY LGU</p>	<p>coordinate with the LGU to maximize the overlap of any planned downtime with any scheduled maintenance. The BPWS shall exert all efforts to plan the duration of downtime within twenty-four (24) hours, and may be extended within justifiable reasons.</p> <p>10.1.2 The BPWS shall conduct regularly all scheduled maintenance of their respective facilities, including repairs, overhauls, improvements, and replacements, in accordance with the maintenance plans and schedules developed at the start of the calendar year.</p> <p>10.1.3 A planned downtime shall be confirmed by BPWS sixty (60) days prior to such downtime and reconfirmed twenty-one (21) days in advance. The BPWS may request to reschedule a planned downtime for any valid reason, and LGU shall make reasonable efforts to accommodate the request. If LGU cannot accommodate the request, it shall inform the BPWS in writing as early as possible, which should not be later than fifteen (15) days after its receipt of a request for rescheduling any planned downtime.</p> <p>10.1.4 The written consent of the LGU to the conduct of the maintenance works must be obtained, and the failure of the LGU to give the requested consent within three (3) business days from receipt of the written notice shall be deemed consent on the performance of the Maintenance Works.</p> <p><b>10.2 UNPLANNED OUTAGES MAINTENANCE</b></p> <p>In case any unplanned downtime occurs or is foreseen to occur, the requesting party shall immediately notify the other party whether in writing or electronic mail specifying the date and commencement of the unplanned downtime and its expected duration. The period of time from the commencement of an unplanned downtime until the resumption of normal delivery of the services (or as may be extended based on any justifiable reason on both parties).</p> <p><b>10.3 BACKUP POWER</b></p> <p>During the term of this contract, the BPWS should have, at its sole cost and expense, supplemental power capabilities to ensure continuous water supply in case of unforeseen power interruptions that are not caused by Force Majeure or Fortuitous Events defined under Clause No. 13.</p> <p>The BPWS hereby agrees to desist and refrain from supplying and distributing water to any person or entity within LGU's franchise and service areas including the Municipalities of Talibon, Ubay, Bien Unido and San Miguel, wherein LGU Trinidad has the exclusive rights to supply bulk water to these municipalities to the exclusion of the BPWS. LGU Trinidad and the BPWS may enter into a joint-venture agreement or any suitable PPP Scheme for the supply of water to the aforementioned Municipalities and other neighboring municipalities at the option of LGU Trinidad but in no case shall the BPWS undertake the supply of water to</p>
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	the aforementioned municipalities on its own.
12. PAYMENT AND CONSIDERATION	<p>12.1 LGU shall pay for the POTABLE water delivered by the BPWS at a rate of thirty pesos (Php30.00), Philippine currency, per cubic meter, inclusive of all taxes.</p> <p>12.2 In the event that LGU fails to accept the total volume of water delivered in accordance with the terms set herein, without any justifiable reason, the BPWS shall bill LGU for the said metered volume provided that the supply is available subject to the technical evaluation of LGU.</p> <p>12.3 The BPWS shall bill LGU once a month. Payment will be made within seven (7) calendar days after receipt of the required correct and complete documents, including documents containing the hourly log data on flow rate, pressure, and total volume.</p> <p>12.4 Any provision to the contrary notwithstanding, all payment shall be subject to existing laws and accounting and auditing rules and regulations in the Philippines.</p>
13. FORTUITOUS EVENTS OR FORCE MAJEURE	<p>13.1 No party shall be liable during the occurrence of any force majeure or fortuitous event.</p> <p>13.2 "Force Majeure or Fortuitous Events" shall mean any event or circumstance or combination thereof that wholly or partly prevents or unavoidably delays any party in the performance of its obligation under this Agreement, but only to the extent that such events and circumstances are not within the reasonable control, directly or indirectly, of the affected party and could not have been avoided even if the affected party had taken reasonable care.</p> <p>13.3 It includes the following events and circumstances to the extent that they, or their consequences, satisfy the above requirement.</p> <ul style="list-style-type: none"> <li>i. Any Government occurrence not otherwise initiated by LGU which includes the change in laws or hostilities; or</li> <li>ii. Any act of war (whether declared or not), invasion, armed conflict or act of a foreign enemy, blockade, riot, terrorism, or exercise of military power; or</li> <li>iii. Any earthquake, fire, typhoon, or any other acts of God or natural environmental disaster adversely affecting the site of the facilities rendering it inoperable.</li> </ul> <p>13.4 "Force Majeure or Fortuitous Events" shall not include major changes in the flow of the source, as a result, of seasonal changes including those affected either directly or indirectly by sediment transport or prolonged drought.</p> <p>13.5 For purposes of making any repairs or maintenance on the facilities, pipelines, or appurtenances that affect the delivery or receipt of water in this project, both parties shall be entitled to claim an aggregate of ONE HUNDRED TWENTY (120) HOURS per year as a "fortuitous event", provided that</p>



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	the service interruption shall not exceed twenty-four (24) hours. Provided further, prior notice shall be given to the other party and the latter has approved the proposed interruption.
14. LGU STEP-IN RIGHTS	<p>14.1 This right may be exercised by LGU in the following cases:</p> <ul style="list-style-type: none"> <li>i. Failure to correct the deviation in the Water Quality Standards for more than forty-eight (48) hours.</li> <li>ii. Complete stoppage of its operations for any reason and for whatever circumstance and such stoppage continued for more than forty- eight (48) hours.</li> <li>iv. Failure to comply with other obligations under this Agreement after due notice and demand and such failure continued for more than one month</li> <li>v. Other circumstances which could adversely Affect the BPWS's ability to operate and maintain the facilities in accordance with this Agreement.</li> </ul> <p>14.2 The BPWS shall allow and permit LGU to enter its premises for purposes of exercising its Step-In Rights. LGU shall exercise due care in operating the Facilities. On the other hand, the BPWS will be allowed to monitor LGU's operations.</p> <p>14.3 The obligation of LGU to pay for the delivered water shall continue despite the exercise of this Step-In Right. However, all expenses incurred in operating the facilities shall automatically be charged to the BPWS with respect to water quality issues, LGU Trinidad shall only pay to the BPWS the metered volume that is potable.</p> <p>14.4 The exercise of this right shall not in any way be construed as a buy-out or take-over of the Facilities by LGU.</p> <p>14.5 LGU shall revert back operational responsibility to the BPWS at its sole discretion or after the circumstances warranting the exercise of this right shall have ceased.</p> <p>14.6 The exercise of Step-In Rights by LGU shall not prejudice any penalty imposable upon the BPWS in accordance with the provisions of this agreement or any case pending before courts of law or issues subjected to mediation or arbitration proceedings.</p>
15.PERFORMANCE SECURITY	<p>15.1 To guarantee the faithful performance of this Contract, the BPWS shall post on an annual basis, performance security in the form of cash, manager's check, cashier's check, bank draft/guarantee confirmed by a reputable commercial or universal bank, irrevocable certified check, letter of credit issued by a reputable bank, surety bond, callable on demand, issued by the Government Service Insurance System or by the surety or any insurance company duly</p>

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	<p>accredited by the Office of the Insurance Commission, or a combination thereof, in accordance with the following schedule:</p> <p>Form of Performance Security    Amount of Performance Security +(Equivalent % of the Total Annual Contract Price)</p> <p>Cash, Irrevocable letter of credit and bank draft, Two percent (2%) of the total project</p> <p>Bank Guarantee a minimum of five percent (5%) of the total project cost.</p> <p>Surety bond a minimum of ten percent (10%) of the total Project cost. The performance guarantee shall be valid up to acceptance by the Agency/LGU of the facility.</p> <p>Should the performance security fall below the amount as required in the contract, the Project Proponent shall provide for an additional performance security to meet such required amount within fifteen (15) days from the occurrence thereof.</p> <p>The performance security shall be proportionately increased in the case of government-approved variations causing an increase in the Project cost. The Project Proponent shall provide for the necessary additional performance security within fifteen (15) days from the approval of the variation.</p> <p>The Agency/LGU shall strictly monitor compliance by the Project Proponent of the requirements for performance security and the sufficiency thereof.</p> <p>15.2 Within ten (10) calendar days from receipt of the Notice of Award (NTA) from LGU but in no case later than the signing of the contract by both parties, the BPWS shall furnish the performance security at the amount required and in any of the forms prescribed in Clause 15.1</p> <p>15.3 The performance security shall be confiscated and this contract terminated should the BPWS fail to deliver water for a period of thirty (30) consecutive days due to circumstances other than those falling under Clause 13, "FORTUITOUS EVENTS OR FORCE MAJEURE" hereof and it is established that the failure to deliver is solely due to the fault of the BPWS.</p> <p>Prior to making a claim under the performance security, LGU shall in every case notify the BPWS in writing, stating the nature and duration of the default in respect of which the claim is to be made.</p>
<b>16.DAMAGES AND PENALTIES</b>	<p><b>16.1 PENALTY FOR LATE DELIVERY</b></p> <p>16.1.1 LGU shall impose a penalty in the form of liquidated damages for any delay in the commencement of water supply (Day One of Delivery) computed as follows:</p>



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	<p>LD per day = 1,000 cu.m./day x 365 x price x.001</p> <p>(Liquidated Damages = 1/10 of 1% x 1000 cu.m. x  Per day price per cu.m. x 365 x No.  of Days Delayed</p> <p>In case of such delay, LGU is hereby authorized to deduct immediately the amount of the liquidated damages from any money due or which may become due to the BPWS in this or any other contract or to collect such amount from the latter's Performance Security, whichever is convenient and expeditious to LGU.</p> <p>16.1.2 The BPWS agrees and binds itself to indemnify LGU for whatever injuries or damages suffered by the latter by reason of the failure, negligence, delay, or conduct of the former and/or its employees in the performance of its obligation.</p> <p>16.1.3 For this purpose, LGU may have the right to withhold payment of any amount due or that becomes due to the BWS to compensate BPWS for any damages it incurred on account of the failure, negligence, or conduct of the BPWS or its employees in the performance of its obligation.</p> <p><b>16.2 PENALTY FOR SHORT DELIVERY</b></p> <p>16.2.1 LGU shall without notice, impose a penalty of one hundred percent (100%) of the selling price per cubic meter for SHORT DELIVERY which shall be automatically and unilaterally deductible from the monthly bill due or which may become due to the BWS in this or any other Contract or to collect a such amount from the latter's Performance Security, whichever is convenient and expeditious to LGU, except if attributable to force majeure as defined in Clause 13, "FORTUITOUS EVENTS OR FORCE MAJEURE".</p> <p>16.2.2 If the force majeure is due to natural calamities like typhoon, earthquake, etc. which requires a reconstruction of the facilities, the obligations of both parties are suspended for a maximum period of six (6) months. After the suspension period has lapsed, LGU shall impose without notice, the same penalty per cubic meter should the BPWS still fails to deliver the guaranteed minimum volume as per schedule in cu.m. per day.</p> <p><b>16.3 PENALTY FOR NON-COMPLIANCE TO WATER QUALITY STANDARDS</b></p> <p>For every non-compliance to the water quality standards, the BPWS shall be imposed the following penalties:</p> <p>16.3.1 One hundred percent (100%) of the selling price of</p>
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	<p>the total delivered volume which is non-compliant with the water quality standards should the BPWS continues to operate despite due notice of shutdown from LGU</p> <p>16.3.2 Reimbursement of LGU's actual costs for water mains flushing, disinfection, water sampling, and laboratory analysis.</p>
	<p><b>16.4 PENALTY FOR NON-COMPLIANCE TO TECHNICAL SPECIFICATIONS AND STANDARDS</b></p> <p>For failure to comply with the technical specifications and standards as to any of the required parameters, such as but not limited to materials, design, fittings, etc. set by LGU, a penalty of ten percent (10%) of the selling price per cubic meter per day shall be imposed to the BPWS until such time that the defect will be corrected.</p> <p>16.5 The impossible penalties herein shall be exclusive of VAT.</p> <p>16.6 At the discretion of LGU, all the aforesaid penalties may be automatically assessed, deducted, and withheld from the account of the BPWS, and such penalties shall continue to be imposed until compliance has been proven.</p> <p>16.7 When satisfactorily proven, LGU may impose penalties for prior acts of non-compliance by the BPWS to the terms or standards provided herein.</p> <p>16.8 It is understood that any payment made by LGU to the BPWS or the failure of LGU to demand compliance with any of the terms and conditions of this contract shall not be considered a waiver on the part of LGU for the enforcement of this Agreement or any portion hereof.</p>
<b>17. TERMINATION</b>	<p>17.1 LGU reserves the right to terminate the contract based on any of the following grounds:</p> <ol style="list-style-type: none"> <li>Failure to correct water quality deviations within seven (7) days from receipt of notice of such deviation.</li> <li>Damages and Penalties reaching ten percent (10%) of the total annual contract price. <ol style="list-style-type: none"> <li>Failure to deliver for thirty (30) consecutive and successive days due to circumstances other than those falling under Clause 15, "FORTUITOUS EVENTS OR FORCE MAJEURE"</li> </ol> </li> </ol>
<b>18. CONFIDENTIALITY</b>	<p>All information contained in this Agreement, including the annexes, attachments, if any, amendatory or supplemental agreement subsequently arising hereon, shall be treated as strictly confidential and shall not be disclosed to any third</p>



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	party unless agreed in writing, save that such information may be disclosed if required by law or any competent regulatory or judicial authority. This information shall be used only for the purpose of this Agreement and confidentiality shall remain in effect even after the termination of this Agreement.
19. DISPUTES AND JURISDICTION	Any dispute, controversy, or claim arising out or relating to this contract or the breach, termination, or invalidity thereof, if the same cannot be settled amicably, may be submitted for arbitration in accordance with Republic Act 9285, otherwise known as the Alternative Dispute Resolution Act of 2004 and the place of arbitration shall be exclusively in the City of Tagbilaran, Bohol, Philippines. Otherwise, said dispute or controversy arising out of the contract or breach thereof shall be submitted to a court of law in Tagbilaran City to the exclusion of all other venues.
20. INCLUSIONS	The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.: i. Technical and Financial Proposal submitted by the Proponent (Program of Work, Technical Specification of Materials, Equipment, etc.); ii. Statement of Compliance to the Technical and Financial Parameters duly notarized; iii. Terms of Reference (TOR); iv. Annexes to the Proposal Requirements; and iv. Entity's Notice of Award.
21. TECHNICAL ASSISTANCE	The BPWS shall provide technical assistance to LGU Trinidad in all phases of the contract implementation and with respect to the existing and future facilities of the Trinidad Waterworks System whether or not the operation of which pertains to this contract or to future ventures of the Trinidad Waterworks System most especially in the supply of bulk water to other LGUs, persons and entities.

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Potable Bulk Water Quality Specifications and LGU-Specific Protocols

**Mandatory Parameters**

Parameter	Point of Compliance	Unit	Maximum Allowable Limit	Frequency
Total Coliform	Drop-off & Injection Points	MPN/ 100mL (MFTF)	<1.1	Daily*
		MPN/ 100mL (EST)	Absent or <1	Daily*
		Coliform colonies/ 100mL (MFT)	<1	Daily*
Thermotolerant Coliform / E.Coli	Drop-off & Injection Points	MPN/ 100mL (MFTF)	<1.1	Daily*
		MPN/ 100mL (EST)	Absent or <1	
		Coliform colonies/ 100mL (MFT)	<1	
Heterotrophic Plate Count (HPC)	Drop-off & Injection Points	CFU/mL	<500	Daily*
Arsenic (As)	Drop-off & Injection Points	mg/L	0.01	Annual
Aluminum (Al)	Drop-off & Injection Points	mg/L	0.2	Monthly
Cadmium (Cd)	Drop-off & Injection Point	mg/l	0.003	Annual
Lead (Pb)	Drop-off & Injection Point	mg/l	0.01	Annual
Nitrate (NO3)	Drop-off & Injection Points	mg/l	50	Annual
Color (Apparent)	Drop-off & Injection Point	Color Units	10	Monthly
Turbidity	Drop-off & Injection Point	NTU	5	Daily*
pH	Drop-off & Injection Point		6.5 – 8.5	Monthly
Total Dissolved Solids	Drop-off & Injection Points	mg/l	600	Monthly
Disinfectant Residual	Drop-off & Injection Point	mg/l	1.0 – 1.5	Daily*

\* Increased frequency of testing from the PNSDW2017 reference due to the criticality of the parameters to the project.

Most values specified are referenced to PNSDW2017.

**PROTOCOLS ON CERTAIN PARAMETERS**

**1. Turbidity**

- 1.1. Turbidity shall be measured by a monitoring instrument that shall be monitored on an hourly basis at the BPWS Injection Point
- 1.2. In cases where actual turbidity falls beyond the specified limit, LGU shall notify the other party of the potential non-compliance and shall immediately conduct onsite testing.
- 1.3. Both parties shall be represented during onsite testing. A one (1) liter container sample will be collected by LGU at the sampling point where all tests shall be taken. No other samples shall be considered for testing other than the one (1) liter container. If the test result conducted by the LGU falls beyond the maximum allowable limits, then the one (1) Liter container sample shall be sealed and signed by both parties and endorsed to the independent third party for the Turbidity test. No sample shall be accepted by the Third Party Laboratory if the seal is broken or tampered with. Test results conducted by the Third Party Laboratory shall be deemed final. Pending the



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result of the DOH ACCREDITED LABORATORIES test, BPWS shall perform remedial measures to address the turbidity issue.

If the result from DOH ACCREDITED LABORATORIES failed Turbidity Testing, water shall then be declared substandard water, LGU may refuse the potable bulk water delivery until such time when Turbidity improves. BPWS shall request LGU for another testing to be represented by both parties subject to protocols under this parameter. Penalties shall apply from the time LGU is found to have failed the Turbidity test from the onsite testing up to the time sample passed the Turbidity test from LGU.

If the result from DOH ACCREDITED LABORATORIES Turbidity Testing differs from the LGU result, it shall be declared that BWS has delivered the potable bulk water. LGU shall also pay the equivalent minimum contractual volume that resulted from any stoppage of delivery.

**2. Residual Chlorine**

- 2.1. Residual Chlorine shall be measured hourly at the BPWS Plant /INJECTION PT.
- 2.2. In cases where Residual Chlorine falls beyond the allowable limits, LGU shall notify BPWS to make the necessary adjustments to address the residual chlorine. LGU shall have the option to refuse delivery of water. BPWS shall be required to comply with the residual chlorine limits within four (4) hours, otherwise, the Total Coliform Test shall be conducted by LGU and Third Party Laboratory. Total Coliform test result shall determine if there is substandard water, thus protocol on Total Coliform shall apply except that recommended methodology of testing shall be the 18-hour chromogenic substrate (9222H) or 24-hr Membrane Filter Technique (9222B).

**3. Total Coliform**

- 3.1. The allowable failure on Total Coliform per injection point shall be one (1) sample per month. For every sampling, a simultaneous test (same-time sampling) shall be carried out by both LGU and DOH ACCREDITED LABORATORIES. In cases where the result from LGU is non-compliant, the result of the DOH ACCREDITED LABORATORIES shall prevail and settles the issue with finality. Any succeeding failure from DOH ACCREDITED LABORATORIES Testing within the month shall be subject to penalty due to substandard water. The penalty shall apply on the day of the failed sample up to the day the sample passed Total Coliform.
- 3.2. Failed samples for two (2) consecutive days from DOH ACCREDITED LABORATORIES allow LGU to cease delivery of potable bulk water.

**4. Fecal Coliform**

- 4.1. For Every sampling, a simultaneous test (same-time sampling) shall be carried out by both LGU and DOH ACCREDITED LABORATORIES. When the LGU test shows a Fecal Coliform result, LGU may call to suspend delivery of potable bulk water subject to results from the DOH ACCREDITED LABORATORIES. If DOH ACCREDITED LABORATORIES result in failure, penalties, and refusal Of delivery shall be imposed immediately. Otherwise, LGU shall be made to pay the equivalent minimum contracted volume throughout the duration of the stoppage.

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**RAW WATER QUALITY DESIGN LIMIT**

The facilities necessary to provide the delivery of the potable bulk water to the injection point have been constructed on the basis of the following raw water envelope:

CONSTITUENT	DESIGN LIMIT	UNIT
Arsenic	0.01	mg/L
Cadmium	0.003	mg/L
Lead	0.01	mg/L
Nitrate	50	mg/L
Color, apparent	10	CU
Turbidity	5	NTU
pH	6.5-8.5	
Total Dissolved Solids	600	
Aluminum	0.2	mg/L
Chloride	250	mg/L
Copper	1	mg/L
Hardness	300 mg/L	mg/L
Hydrogen Sulfide	0.05 mg/L	mg/L
Iron	1.0 mg/L	mg/L
Manganese	0.4 mg/L	mg/L
Odor	No objectionable Odor	
Sodium	200 mg/L	mg/L
Xylenes (Total)	0.5 mg/L	mg/L
Zinc	5.0 mg/L	mg/L