

PROCUREMENT CONTRACT

G- 023 -2017

This CONTRACT, is entered into this 6th day of OCT, by and between:

The **BUREAU OF JAIL MANAGEMENT AND PENOLOGY**, Government Agency of the Philippines, with principal address at 144 Mindanao Avenue, Project 8, Quezon City, represented by **J/CSUPT DEOGRACIAS C TAPAYAN, CESE, ACTING CHIEF, BJMP** hereinafter referred to as the “**ENTITY**”;

and

The **AUTOMATIONS SOLUTIONS AND POWER EXPONENTS INC.** with business address at 159 Boni Avenue, Brgy. Plainview, Mandaluyong City, Metro Manila, represented by **JHANINE CARLA B. AQUITANIA, Sales Admin Support-Government Accounts**, Automation Specialist and Power Exponents Inc. hereinafter referred to as the “**SUPPLIER**”.

WHEREAS, the **ENTITY** is desirous of the **SUPPLY AND DELIVERY OF 756 UNITS OF UNINTERRUPTED POWER SUPPLY (UPS) FOR DESKTOP COMPUTER** (hereinafter called as “Goods”) and **ENTITY** has accepted the bid of **ONE MILLION FOUR HUNDRED ELEVEN THOUSAND FOUR HUNDRED TWENTY FIVE PESOS only (Php1,411,425.00)** by the **SUPPLIER**.

THE PARTIES HEREBY AGREED TO THE TERMS STATED HEREUNDER:

1. THAT in this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of the Contract hereinafter referred to;
2. THAT the following documents shall be attached, deemed to form and be read, construed as part of this Agreement, to wit:
 - a. General and Special Conditions of the Contract;
 - b. Specifications;
 - c. Instructions to Bid;
 - d. Instructions to Bidder;
 - e. Bid Data Sheet;
 - f. Bid Form, including all the documents/ statements contained in the Bidders bidding envelopes as annexes;
 - g. Eligibility requirements, documents and/or statements;
 - h. Performance Security;

- i. Notice of Award of Contract and the bidder's conforme thereto;
 - j. Other contract documents that may be required by existing laws and/or the **ENTITY**.
3. THAT in consideration of the payments to be made by the **ENTITY** to the **SUPPLIER** as hereinafter mentioned, the **SUPPLIER** hereby covenants with the **ENTITY** to execute and complete the delivery of Goods and remedy any defects therein in conformity with the provisions of this Contract and the relevant provisions on Obligations and Contracts (Book IV, Titles I and II) and Sales (Book IV, Title VI) of Civil Code of the Philippines;
4. THAT the **ENTITY** hereby covenant to pay the **SUPPLIER** in consideration of the provision of the goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the time and in the manner prescribed by the contract.

NOW THEREFORE, the Parties hereby agree to follow:

ARTICLE I

SCOPE AND SPECIFICATION

SUPPLIER shall complete the project SUPPLY AND DELIVERY OF 756 UNITS OF UNINTERRUPTED POWER SUPPLY (UPS) FOR DESKTOP COMPUTER herein referred to as the Goods, which shall be in accordance with the BJMP technical specifications.

ARTICLE II

PRICE

1. The total price of the **SUPPLIER** for the delivery of the goods mentioned in Article I above is ONE MILLION FOUR HUNDRED ELEVEN THOUSAND FOUR HUNDRED TWENTY FIVE PESOS only (Php1,411,425.00).
2. The total price abovementioned shall be inclusive of all national and local taxes, import duties and VAT, and shall not be affected by any changes in the exchange rates between the Philippine Peso and the US currency and that no price escalation shall be allowed.

ARTICLE III

PERIOD AND PLACE OF DELIVERY

1. The goods shall be delivered at the BJMP National Headquarters through the Supply Accountable Office (SAO), 2/F BJMP NHQ Building, 144

Mindanao Avenue, Quezon City. All expenses to complete the delivery shall be for the account of the **SUPPLIER**. Expenses in connection with the acceptance test and evaluation of the goods shall also be borne by the **SUPPLIER**.

2. Completion of the project "SUPPLY AND DELIVERY OF 756 UNITS OF UNINTERRUPTED POWER SUPPLY (UPS) FOR DESKTOP COMPUTER" shall be made within **FORTY-FIVE (45) Calendar Days** upon receipt of the Notice to Proceed (NTP). Delivery of the goods shall be made at the abovementioned place for the test and evaluation in coordination with the Supply Accountable Office (SAO) for the proper inventory of the equipment.

ARTICLE IV

ACCEPTANCE AND PAYMENT

1. The BJMP Technical Inspection and Acceptance Committee (TIAC) chaired by the Deputy Director for Logistics and the end-user shall accept the delivery made by the **SUPPLIER** by virtue of and pursuant to this Contract by seeing to that the quantity of the goods is in accordance with the approved technical specifications. Acceptance of the project shall be made within the day of delivery of the goods.

2. The **SUPPLIER**, upon final acceptance of the project under this Contract, shall be paid in full of the contract price through disbursement voucher subject to government accounting and auditing rules and regulations right after the final acceptance of the goods. Partial payment for partial completion is not allowed.

ARTICLE V

PERFORMANCE SECURITY

1. To guarantee full and faithful compliance with the terms and conditions of this Contract, **SUPPLIER** shall submit to the BJMP BAC Secretariat as Performance Security either in form of Bank Draft/Guarantee, Cash or Cashier's/Manager's Check issued by commercial or universal bank in amount equivalent to five percent (5%) of the contract price or surety bond callable on demand in an amount equivalent to thirty percent (30%) of the contract price mentioned in Article II hereof, which shall only be released upon the full and faithful compliance of the provisions of this Contract.

2. The Performance Security mentioned above shall be submitted by **SUPPLIER** within three (3) calendar days from its receipt of Notice of Award. Failure on the part of **SUPPLIER** to submit the Performance Security within the period herein mentioned shall result in the automatic nullification of this Contract. As may be warranted, the BJMP shall impose the administrative sanction against **SUPPLIER** to perform its obligation under this Contract pursuant to the pertinent provisions of RA No. 9184 and its IRR.

3. The Performance Security shall be valid for a period of one hundred twenty (120) calendar days which shall be released to **SUPPLIER** only upon final acceptance of the project subject of this Contract. In case of unjustified failure on the part of **SUPPLIER** to perform its obligation under this Contract, the Performance Security shall be forfeited in favor of the **ENTITY**.

ARTICLE VI

PENAL CLAUSE

1. In case of non-delivery of the goods within the period mentioned in Article III of this Contract, **SUPPLIER** shall be *ipso facto* in delay on the day following the last day to deliver and complete the project without need of prior notice or demand for such purpose. For every day of delay, the **SUPPLIER** shall be liable to pay the **ENTITY** a penalty in the amount of 1/10th of 1% of the total contract price which shall be automatically deducted from the amount due **SUPPLIER** pursuant to this Contract.

ARTICLE VII

RECISSION CLAUSE

1. In case the amount of penalty collectible from **SUPPLIER** due to delay in the delivery shall exceed ten percent (10%) of the total contract price, the Head of the Procuring Entity (HOPE), upon the recommendation of the BJMP BAC, shall rescind this Contract and forfeit in favor of the **ENTITY** the Performance Security.

ARTICLE VIII

WARRANTY

1. **SUPPLIER** warrants that the goods be delivered are brand new, conforms to the approved equipment free from any manufacturing defects of whatever nature and, in case of defects noted within one (1) year from final acceptance, **SUPPLIER** shall replace the defective unit with a new one if the defective unit could no longer be repaired without impairing its capability and usefulness. For replacement purposes, the BJMP BAC through its BAC Secretariat shall notify **SUPPLIER** in writing about the defective goods and simultaneously return the same.

2. The warranty shall be for a period of one (1) year from the date of final acceptance. **SUPPLIER** shall submit a special bank guarantee, cash or cashier's/manager's check issued by commercial or universal bank in amount equivalent to ten percent (10%) of the total contract price mentioned in Article II hereof, as Warranty Security. This Warranty Security shall be forfeited in favor of the **ENTITY** should **SUPPLIER** fails to perform any of warranties above

mentioned. The Warranty Security shall be returned to **SUPPLIER** in full after the warranty period.

ARTICLE IX

FORCE MAJEURE

1. **SUPPLIER** shall not be in delay for the performance of any of its obligations under this Contract or be held liable for non-performance in case of force majeure. For purposes of this Contract, force majeure shall mean those which could not be foreseen or which though foreseen were inevitable or could not be avoided.

2. In case **SUPPLIER** could not perform its obligations, or deliver the goods and complete the project within the period for such purpose due to force majeure, **SUPPLIER** shall inform the Chairman, BJMP BAC in writing within three (3) days from the occurrence of force majeure.

3. Failure on the part of **SUPPLIER** to make required written notice within the period for such purpose without any justifiable reason shall render the preceding provision ineffective.

ARTICLE X

INCORPORATION CLAUSE

1. The **PARTIES** hereto agree that the provisions of applicable laws, as well as administrative, accounting and auditing rules and regulations issued by competent authorities are deemed written into and form part of this Contract.

ARTICLE XI

VENUE OF ACTION

1. Any legal action that may arise in connection with or as an incident of this Contract shall be filed with the Regional Trial court (RTC) of Quezon City. Litigation, however, shall only be resorted to after the appropriate mode of alternative dispute resolutions has been exhausted by the **PARTIES**.

IN WITNESS WHEREOF, the **PARTIES** have hereunto executed this Procurement Contract and hereby affixed their signatures this 6th day of OCT 2017, at the BJMP-National Headquarters, 144 Mindanao Avenue, Project 8, Quezon City, Philippines.

FOR THE ENTITY

DEOGRACIAS C. TAPAYAN, CESE

Jail Chief Superintendent

Acting Chief, BJMP

BJMP ID No. 206-15-T950112

Witnesses:

EDWARD S. MIRA II

Republic of the Philippines)

Quezon City) ss.

FOR THE SUPPLIER

JHANINE CARLA B. AQUITANIA

Sales Admin-Support

Government Accounts

Automation Specialist and Power

Exponents Inc.

ID No. EC1677963

TIN : 446-400-332-000

ACKNOWLEDGEMENT

BEFORE ME, a Notary Public for and in Quezon City personally appeared the above named parties and presenting to me their respective government identification cards presented above, both personally known to me as the same persons who executed the foregoing instrument on their own, free and voluntary act and deed.

This instrument consists of six (6) pages including this page in which this acknowledgement is written, duly signed by the parties and their instrumental witnesses on each and every page hereof.

10 OCT 2017

WITNESS MY HAND AND SEAL this _____ day of _____ 2017 in Quezon City, Philippines.

Notary Public

Doc. No. 323
Page No. 68
Book No. XXXV
Series of 2017

ATTY. TRIXIA THERESA B. REYES
NOTARY PUBLIC
UNTIL DECEMBER 31, 2017
PTR NO. 3015461-01/03/17 MAND. CITY
NOTARIAL COMMISSION NO. 0380-16
ROLL OF ATTORNEYS NO. 60934
IBP LIFETIME NO. 892421 / CAVITE
MCLE-COC NO. V-0016770-04/14/19